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EMERGENCY
COMMISSION**

**COMMISSION
SUR L'ÉTAT
D'URGENCE**

Public Hearing

Audience publique

**Commissioner / Commissaire
The Honourable / L'honorable
Paul S. Rouleau**

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IV

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V

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Ottawa, Ontario

--- Upon commencing on Wednesday, November 16, 2022 at 9:30 a.m.

THE REGISTRAR: Order. À l'ordre. The Public Order Emergency Commission is now in session. La Commission sur l'état d'urgence est maintenant ouverte.

MS. ALEXANDRA HEINE: The next witness is Mr. John Ossowski.

MR. JOHN OSSOWSKI: Morning.

COMMISSIONER ROULEAU: Morning.

MS. ALEXANDRA HEINE: Morning.

THE REGISTRAR: Mr. Ossowski, will you swear on a religious document, or do you wish to affirm?

MR. JOHN OSSOWSKI: Affirm, please.

THE REGISTRAR: For the record, please state your full name and spell it out.

MR. JOHN OSSOWSKI: John Ossowski. J-O-H-N O-S-S-O-W-S-K-I.

--- MR. JOHN OSSOWSKI, Affirmed:

THE REGISTRAR: Thank you.

--- EXAMINATION-IN-CHIEF BY MS. ALEXANDRA HEINE:

MS. ALEXANDRA HEINE: Good morning, Ms. Ossowski. Nice to see you again. My name is Alexandra Heine. I'm Commission Counsel, and I'll be doing your examination today. And at the end, my colleague, Gord Cameron, will have a few questions for you.

So we're just going to start by pulling up your witness statement, which, Mr. Clerk, is WTS00000046. Thank you.

So you recall that you participated in an

1 interview with Commission Counsel in anticipation of your
2 appearance here today on August 24th?

3 **MR. JOHN OSSOWSKI:** I do.

4 **MS. ALEXANDRA HEINE:** And three of your
5 colleagues, Christine Derosiers, Scott Harris and Ted Gallivan,
6 who are not here today, were also interviewed; is that right?

7 **MR. JOHN OSSOWSKI:** That's correct.

8 **MS. ALEXANDRA HEINE:** And so I would ask you to
9 confirm that you've reviewed the summary of that interview, and
10 if you have no changes to make, confirm that insofar as it
11 contains your information, it is accurate to the best of your
12 knowledge and belief and you adopt it, and insofar as it
13 contains information from your colleagues, you believe that
14 information to have been reviewed and accepted as accurate by
15 your colleagues?

16 **MR. JOHN OSSOWSKI:** I confirm that.

17 **MS. ALEXANDRA HEINE:** Thank you. So, Mr. Clerk,
18 if we could also pull up DOJ-IR0000006?

19 So, Mr. Ossowski, your department prepared and
20 filed with the Commission this institutional report. Have you
21 reviewed this document?

22 **MR. JOHN OSSOWSKI:** I have.

23 **MS. ALEXANDRA HEINE:** And is it accurate to the
24 best of your knowledge and belief?

25 **MR. JOHN OSSOWSKI:** It is.

26 **MS. ALEXANDRA HEINE:** Can you confirm that CBSA
27 has filed this institutional report as part of its evidence
28 before the Commission?

1 **MR. JOHN OSSOWSKI:** I believe so, yes.

2 **MS. ALEXANDRA HEINE:** Thank you. So at the time
3 of the Freedom Convoy events, you were the President of the
4 CBSA; is that right?

5 **MR. JOHN OSSOWSKI:** That's correct.

6 **MS. ALEXANDRA HEINE:** And the CBSA is the Canada
7 Border Services Agency?

8 **MR. JOHN OSSOWSKI:** Yes.

9 **MS. ALEXANDRA HEINE:** So you left that role in
10 June of 2022 I understand?

11 **MR. JOHN OSSOWSKI:** That's correct. I retired.

12 **MS. ALEXANDRA HEINE:** Okay. You're retired now.
13 And CBSA manages 117 land border crossings, 22 of which are
14 commercial ports of entry; is that right?

15 **MR. JOHN OSSOWSKI:** That's correct.

16 **MS. ALEXANDRA HEINE:** And amongst other things,
17 CBSA is responsible for administering and enforcing legislation
18 that governs the admissibility of people and goods in and out of
19 Canada ---

20 **MR. JOHN OSSOWSKI:** Amongst ---

21 **MS. ALEXANDRA HEINE:** --- is that right?

22 **MR. JOHN OSSOWSKI:** -- amongst 90 pieces of
23 legislation and regulation, yes.

24 **MS. ALEXANDRA HEINE:** Right. It also identifies
25 detaining and removing people who are inadmissible to Canada?

26 **MR. JOHN OSSOWSKI:** Yes.

27 **MS. ALEXANDRA HEINE:** And ensure compliance with
28 Canadian laws in the border-related context?

1 **MR. JOHN OSSOWSKI:** That's correct.

2 **MS. ALEXANDRA HEINE:** And it also protects food
3 and safety, plant and animal health, and Canada's resource base;
4 is that right?

5 **MR. JOHN OSSOWSKI:** That's correct.

6 **MS. ALEXANDRA HEINE:** And Border Services
7 officers, which are sometimes called BSOs, carry out some of
8 those responsibilities; is that right?

9 **MR. JOHN OSSOWSKI:** That's correct.

10 **MS. ALEXANDRA HEINE:** And BSOs have regulatory
11 authorities under the *Quarantine Act*, the *Immigration and*
12 *Refugee Protection Act* and the *Customs Act*; is that right?

13 **MR. JOHN OSSOWSKI:** They have -- well, if there
14 was something happened with respect to the *Quarantine Act*, if
15 there was something that officers suspected was offside, they
16 would refer that to a Public Health official for how they would
17 decide to enforce that particular provision.

18 **MS. ALEXANDRA HEINE:** Right. And I understand
19 that BSOs don't have authorities beyond sort of the confines of
20 ports of entry or CBSA property; is that right?

21 **MR. JOHN OSSOWSKI:** That's correct. They're not
22 peace officers. They have very limited *Criminal Code* powers
23 under the *Customs Act* and the *Immigration and Refugee Protection*
24 *Act*.

25 **MS. ALEXANDRA HEINE:** Right. So they wouldn't
26 have the power or authority to conduct an arrest, for example,
27 outside of the port of entry?

28 **MR. JOHN OSSOWSKI:** No. Well, in the case of an

1 immigration enforcement inland, they might ---

2 **MS. ALEXANDRA HEINE:** Right.

3 **MR. JOHN OSSOWSKI:** --- yes.

4 **MS. ALEXANDRA HEINE:** But otherwise ---

5 **MR. JOHN OSSOWSKI:** But not -- otherwise, no.

6 **MS. ALEXANDRA HEINE:** Right. And so accordingly,
7 the CBSA doesn't typically intervene in activities that occurs
8 outside of its port of entry and its property; is that right?

9 **MR. JOHN OSSOWSKI:** That's correct.

10 **MS. ALEXANDRA HEINE:** So in the case of the
11 convoy, the CBSA did not intervene directly in the protest and
12 blockades because they happened near the ports of entry and not
13 on the ports of entry's property; is that right?

14 **MR. JOHN OSSOWSKI:** That's correct.

15 **MS. ALEXANDRA HEINE:** So on that note, I'll take
16 you through the convoy, and the way I'm going to structure this
17 is I'm going to start by asking you questions about CBSA's
18 response to the convoy and specific blockades, and then I'm
19 going to ask you more specifically later in the examination
20 about your roles and responsibilities during the convoy. Thank
21 you.

22 So we'll start with CBSA's response to the
23 convoy. I understand that on January 25th -- sorry, January 15th,
24 there were certain Order in Council provisions that had
25 previously allowed foreign national truckers to enter Canada
26 unvaccinated that expired; is that right?

27 **MR. JOHN OSSOWSKI:** That's correct.

28 **MS. ALEXANDRA HEINE:** And on the same day,

1 Canadian unvaccinated commercial truckers entering Canada became
2 subject to testing and quarantine requirements for which they
3 had previously been exempt?

4 **MR. JOHN OSSOWSKI:** That's correct.

5 **MS. ALEXANDRA HEINE:** So this caused the sporadic
6 protest activities and ultimately the movement that we know as
7 the Freedom Convoy; is that right?

8 **MR. JOHN OSSOWSKI:** I assume so.

9 **MS. ALEXANDRA HEINE:** And CBSA had intelligence,
10 mostly open source intelligence, that there were going to be
11 some blockades near ports of entry sometime in late January; is
12 that right?

13 **MR. JOHN OSSOWSKI:** Well, we certainly saw the
14 first slow roll activity on January 17th in Emerson.

15 **MS. ALEXANDRA HEINE:** Right. And that slow roll
16 did not become a blockade; is that right?

17 **MR. JOHN OSSOWSKI:** Not yet, no.

18 **MS. ALEXANDRA HEINE:** Right. That came later?

19 **MR. JOHN OSSOWSKI:** Yeah.

20 **MS. ALEXANDRA HEINE:** And in response to sort of
21 this intelligence, CBSA put into place a contingency plan. Did
22 you have any involvement in that?

23 **MR. JOHN OSSOWSKI:** That would have been put
24 together by the operational folks in the field with the
25 supervision of the leadership in Ottawa, yes.

26 **MS. ALEXANDRA HEINE:** Right. But you knew about
27 it?

28 **MR. JOHN OSSOWSKI:** Yes.

1 **MS. ALEXANDRA HEINE:** Right.

2 **MR. JOHN OSSOWSKI:** Yeah.

3 **MS. ALEXANDRA HEINE:** And that was on January
4 28th, I believe; is that right?

5 **MR. JOHN OSSOWSKI:** Yes.

6 **MS. ALEXANDRA HEINE:** Amongst other things, I
7 don't think we need to pull it up, I'll just note for the record
8 that it's PB.NSC.CAN.9523, but it identified the safety and
9 security of CBSA employees as its top priority. Is that
10 consistent with your recollection?

11 **MR. JOHN OSSOWSKI:** Yes.

12 **MS. ALEXANDRA HEINE:** And it also provided
13 regions and headquarters with high-level contingency awareness
14 and guidance on CBSA's operational posture?

15 **MR. JOHN OSSOWSKI:** That's correct.

16 **MS. ALEXANDRA HEINE:** And it also set out a
17 process whereby BOC, which is the Border Operations Centre,
18 would provide situational reports twice a day. Is that right?

19 **MR. JOHN OSSOWSKI:** That's correct.

20 **MS. ALEXANDRA HEINE:** And my colleague, Gord
21 Cameron, is going to touch on that, so he'll pick it up later,
22 but I understand that CBSA, in addition to the contingency plan,
23 also implemented different port hardening measures?

24 **MR. JOHN OSSOWSKI:** That's correct.

25 **MS. ALEXANDRA HEINE:** Can you describe what those
26 measures were?

27 **MR. JOHN OSSOWSKI:** It would vary by port of
28 entry, but certainly one of the things that we started to do

1 was, and very unusually, apply cameras facing back into Canada
2 so that we could be aware of what was coming from behind.
3 Obviously the officers are facing the United States. We have
4 lots of cameras facing vehicles and passengers coming into the
5 country. But this was done so they had situational awareness of
6 what might be coming at them from the Canadian side.

7 **MS. ALEXANDRA HEINE:** Anything else?

8 **MR. JOHN OSSOWSKI:** Not -- that was probably the
9 most significant piece that we started to do.

10 **MS. ALEXANDRA HEINE:** Right. And cameras, you
11 mean CCTV, ---

12 **MR. JOHN OSSOWSKI:** Yes.

13 **MS. ALEXANDRA HEINE:** --- like surveillance
14 footage? Okay.

15 And I understand that BSOs were also instructed,
16 and that's, again, border services officers, BSOs, were
17 instructed to refer foreign nationals entering Canada for the
18 purpose of participating in protests to secondary for
19 confirmation of their eligibility to enter Canada? Is that
20 right?

21 **MR. JOHN OSSOWSKI:** Yes. It was called the
22 Enhanced Vigilance Exam.

23 **MS. ALEXANDRA HEINE:** Enhanced Vigilance Exam.
24 And can you explain what sending somebody to secondary means?

25 **MR. JOHN OSSOWSKI:** It means that either they
26 declared something during the primary inspection during the
27 initial interaction with an officer where the officer suspected
28 they weren't being truthful and they went to secondary for a

1 complete exam to make sure that they were eligible to enter the
2 country.

3 **MS. ALEXANDRA HEINE:** Okay. So if a BSO
4 suspected that somebody wanted to come into Canada to
5 participate in the protest, they would send them to secondary?

6 **MR. JOHN OSSOWSKI:** Yes.

7 **MS. ALEXANDRA HEINE:** And BSOs were also
8 instructed to closely examine those travellers to ensure -- and
9 travellers generally, to ensure the requirements issued by the
10 Public Health Agency of Canada under the *Quarantine Act* were met
11 by the individuals entering Canada? Is that also right?

12 **MR. JOHN OSSOWSKI:** That's correct.

13 **MS. ALEXANDRA HEINE:** Right. So that would
14 involve questions about sort of, you know, their vaccination
15 status, testing for covid? Things like that?

16 **MR. JOHN OSSOWSKI:** Yeah. Proof of vaccination.

17 **MS. ALEXANDRA HEINE:** Right. So I'll take you to
18 January 29th, which is when the Coutts blockade started. So that
19 was sort of the first major blockade? Is that right?

20 **MR. JOHN OSSOWSKI:** Yes.

21 **MS. ALEXANDRA HEINE:** And understanding that
22 there was sporadic protest activities, so specifically slow roll
23 convoys at other ports of entry in late January/early February,
24 I understand that the next major blockade happened at the
25 Bluewater Bridge, which is in Sarnia in Ontario, on February 6th.
26 Is that right?

27 **MR. JOHN OSSOWSKI:** I believe so, yes.

28 **MS. ALEXANDRA HEINE:** And that blockade dispersed

1 on February 8th?

2 **MR. JOHN OSSOWSKI:** Yes.

3 **MS. ALEXANDRA HEINE:** And then the next major
4 blockade happened in Windsor on February 7th? Is that right?

5 **MR. JOHN OSSOWSKI:** That's right.

6 **MS. ALEXANDRA HEINE:** And that's when CBSA issued
7 its first border alert?

8 **MR. JOHN OSSOWSKI:** Correct.

9 **MS. ALEXANDRA HEINE:** Which advised people that
10 the Ambassador Bridge Port of Entry was experiencing delays? Is
11 that right?

12 **MR. JOHN OSSOWSKI:** Correct.

13 **MS. ALEXANDRA HEINE:** And specifically
14 experiencing service disruptions?

15 **MR. JOHN OSSOWSKI:** That's correct.

16 **MS. ALEXANDRA HEINE:** So could you explain,
17 first, what's a border alert and what is, second, what is a
18 service disruption, as opposed to a service suspension and a
19 closure of a port of entry?

20 **MR. JOHN OSSOWSKI:** Sure. So a border alert is
21 just something that we would have sent out to the travelling
22 public or to the commercial side so that they're aware that they
23 might need to choose another port of entry to come into the
24 country. service disruption just means that for some reason the
25 port of entry isn't accessible, and/or there's some -- it could
26 be an IT outage, for example, if there's a disruption, or it
27 could be that there's an excessive backlog of traffic. We try
28 to maintain a 60-minute service standard, no longer than 60-

1 minute border wait time. And if that's not the case, then we'd
2 send out an alert for traveling public and commercial entities
3 to know.

4 **MS. ALEXANDRA HEINE:** Right. And a port of entry
5 closure, I understand, doesn't happen very often? Is that
6 right?

7 **MR. JOHN OSSOWSKI:** That's correct.

8 **MS. ALEXANDRA HEINE:** And in what circumstances
9 would that happen?

10 **MR. JOHN OSSOWSKI:** Like maybe -- very -- I don't
11 remember we actually closed the port of entry, except for a very
12 short period of time, for example around flooding in Manitoba.

13 **MS. ALEXANDRA HEINE:** Right.

14 **MR. JOHN OSSOWSKI:** But we would -- we actually
15 had the ability to suspend service at a port of entry. This is
16 what actually happened in Coutts at the request of the RCMP.

17 **MS. ALEXANDRA HEINE:** Right. And we'll get to
18 that. But a service suspension, what does that look like on the
19 ground?

20 **MR. JOHN OSSOWSKI:** So the officers are still
21 there, but they're not processing vehicles or people anymore,
22 except in exceptional circumstances. So you might have the
23 situation where you're not providing the service but if somebody
24 came and there was a need for an emergency vehicle to get
25 across, then they would facilitate that.

26 **MS. ALEXANDRA HEINE:** Right. It's sort of a
27 skeleton crew that's sort of at the port of entry just ---

28 **MR. JOHN OSSOWSKI:** Correct.

1 **MS. ALEXANDRA HEINE:** Okay. And maybe let's pull
2 up the Institutional Report. And that's DOJ.IR.00000006.

3 And Mr. Clerk, if we could go to page 32, please?

4 All right. So this is a chart that sets out the
5 service disruptions and suspensions that occurred sort of at the
6 major ports of entry during the convoy? Is that right?

7 **MR. JOHN OSSOWSKI:** Right.

8 **MS. ALEXANDRA HEINE:** And we see that there was a
9 service disruption, as I mentioned earlier, issued on February
10 7th for Ambassador Bridge?

11 **MR. JOHN OSSOWSKI:** M'hm.

12 **MS. ALEXANDRA HEINE:** And the next service
13 disruption was issued on February -- sorry, service suspension
14 was issued on February 12th? Is that right?

15 **MR. JOHN OSSOWSKI:** That's correct.

16 **MS. ALEXANDRA HEINE:** And there was also a
17 service disruption at Coutts on February 10th as well? Sorry, --
18 -

19 **MR. JOHN OSSOWSKI:** Emerson.

20 **MS. ALEXANDRA HEINE:** --- Emerson. Thank you.
21 And on February 12th, if we just scroll down a bit, there was
22 also a service disruption issued for the Pacific Highway Port of
23 Entry, which is in B.C.? Is that right?

24 **MR. JOHN OSSOWSKI:** Yeah.

25 **MS. ALEXANDRA HEINE:** Okay. So there's a total
26 of three disruptions and one suspension at those ports of entry?

27 **MR. JOHN OSSOWSKI:** Yes.

28 **MS. ALEXANDRA HEINE:** Were any other service

1 disruptions or suspensions issued for any other ports of entry?

2 **MR. JOHN OSSOWSKI:** Not that I'm aware of.

3 **MS. ALEXANDRA HEINE:** Can you walk us through,
4 generally, in terms of border wait times and the like? What
5 were the impacts on these main blockades? The impacts of the
6 blockades on these main ports of entry?

7 **MR. JOHN OSSOWSKI:** Certainly. So as you
8 mentioned in your opening remarks, there's 117 land ports of
9 entry. Twenty-two (22) of them are designated commercial ones.
10 And they are specifically set up to receive and process
11 commercial traffic, including livestock and/or time sensitive
12 goods that need to sort of pass expeditiously. Often they'll
13 have the presence of a CAF food inspector. And importantly,
14 it's set up with our friends to the south in terms of the U.S.
15 Customs and Border Protection. They would have a similar
16 processing capability to mirror the Canadians at those ports of
17 entry.

18 So for example, Coutts is the only designated
19 port of entry that does commercial processing in the Province of
20 Alberta, and the next available one would have been either in
21 Saskatchewan or in British Columbia. There were other ports of
22 entry, but they weren't designed or set up to process commercial
23 traffic, which is what made it so impactful.

24 **MS. ALEXANDRA HEINE:** Right. And so let's go to
25 Coutts in terms of specifics. So as you mentioned, there's some
26 commercial ports of entry neighbouring Coutts in Saskatchewan
27 and B.C., but I understand that those are eight -- around eight
28 hours away from Coutts? Is that right?

1 **MR. JOHN OSSOWSKI:** It's quite a drive, yeah.

2 **MS. ALEXANDRA HEINE:** Right.

3 **MR. JOHN OSSOWSKI:** Not feasible in the winter,
4 especially with livestock.

5 **MS. ALEXANDRA HEINE:** Right. And those are North
6 Portal in Saskatchewan, or Regway, and Roosville in B.C. or
7 Kingsgate? Is that right?

8 **MR. JOHN OSSOWSKI:** I believe Kingsgate, but I
9 don't have the list in front of me.

10 **MS. ALEXANDRA HEINE:** Okay. I think you can just
11 take my word for it.

12 **MR. JOHN OSSOWSKI:** Sure.

13 **MS. ALEXANDRA HEINE:** And so the CBSA, I
14 understand, in response to the convoy, and because those
15 alternative commercial ports of entry were so far away, they
16 identified Del Bonita and Carway, which are two ports of entry
17 that are closer to Coutts, much closer, Del Bonita is about 50
18 minutes away and Carway is about an hour and a half away, as
19 potential alternative ports of entry. But as you noted, they
20 were not outfitted to necessarily process commercial traffic?
21 Is that right?

22 **MR. JOHN OSSOWSKI:** Absolutely. So we would have
23 redistributed officers to help with any traffic that chose to go
24 those routes. But they're not set up, for example, if we had to
25 do an enforcement action, there's no facility there to offload
26 the vehicle and inspect it completely. So there -- they just
27 weren't set up to deal with that type of full commercial
28 operation.

1 **MS. ALEXANDRA HEINE:** Right. And they don't have
2 infrastructure either, like Canada Food Inspection Agency set up
3 there?

4 **MR. JOHN OSSOWSKI:** Correct.

5 **MS. ALEXANDRA HEINE:** And no USDA veterinary
6 services for livestock.

7 **MR. JOHN OSSOWSKI:** Exactly.

8 **MS. ALEXANDRA HEINE:** Right. And so, I
9 understand that in response to these obstacles, Brad Wozny, who
10 is your colleague -- was your colleague, and he's the Regional
11 Director of the Prairie Region, which captures both Manitoba and
12 Alberta, is that right?

13 **MR. JOHN OSSOWSKI:** The Regional Director
14 General, yes.

15 **MS. ALEXANDRA HEINE:** Regional Director General,
16 thank you.

17 And so he worked with the RCMP, which was the
18 local police of jurisdiction in Coutts, the US Custom Border
19 Protection Services, and CFIA, so that's the Canada Food
20 Inspection Agency, and the US Department of Agriculture, to
21 facilitate the movement of commercial traffic through those
22 alternative ports of entry.

23 **MR. JOHN OSSOWSKI:** That's correct.

24 **MS. ALEXANDRA HEINE:** Is that right?

25 **MR. JOHN OSSOWSKI:** Yeah.

26 **MS. ALEXANDRA HEINE:** So that's specifically Del
27 Bonita and Carway. And as he explained in his witness summary,
28 which for the record it's WTS000000044, they arrange for traffic

1 moving southbound, so that's going from Canada into the US, to
2 effectively move across to Sweet Grass, Montana, which is
3 located South of Coutts, and access a USDA Inspection Services
4 there, is that right?

5 **MR. JOHN OSSOWSKI:** I believe so, yes.

6 **MS. ALEXANDRA HEINE:** And so then they would be
7 able to, sort of, divert the traffic in that manner. And then
8 the northbound vehicles, so those going from the US into Canada,
9 would drive up to Sweet Grass, and they were inspected by CFIA,
10 and their loads were sealed, and then they would move across to
11 Del Bonita and enter Canada in that way.

12 **MR. JOHN OSSOWSKI:** That's correct.

13 **MS. ALEXANDRA HEINE:** And so I understand that
14 there were impacts to the Coutts port of entry all the way until
15 February, around February 13th, where there was some enforcement
16 action by the RCMP, is that right?

17 **MR. JOHN OSSOWSKI:** That's correct.

18 **MS. ALEXANDRA HEINE:** And can you explain sort of
19 what that enforcement action entailed?

20 **MR. JOHN OSSOWSKI:** The RCMP arrested four
21 individuals and laid criminal charges.

22 **MS. ALEXANDRA HEINE:** And there were guns and
23 ammunitions that were seized?

24 **MR. JOHN OSSOWSKI:** I believe so, yes.

25 **MS. ALEXANDRA HEINE:** And the rest of the
26 protesters that were remaining agreed to leave sometime midday,
27 or in the afternoon of February 14th, is that right?

28 **MR. JOHN OSSOWSKI:** I believe so, yes.

1 **MS. ALEXANDRA HEINE:** And if we can pull up, Mr.
2 Clerk, PBCAN1385.

3 (SHORT PAUSE)

4 **MS. ALEXANDRA HEINE:** So, Mr. Ossowski, this is
5 an email that you sent to Minister Mendicino, who's the Minister
6 of Public Safety, on February 15th, is that right?

7 **MR. JOHN OSSOWSKI:** Yes, it is.

8 **MS. ALEXANDRA HEINE:** And you advised him that
9 protestors were leaving Coutts as of 3:00 p.m. on February 14th?

10 **MR. JOHN OSSOWSKI:** That's correct.

11 **MS. ALEXANDRA HEINE:** And that around 8:30 p.m.,
12 the CBSA was advised that the RCMP had removed the conveyances
13 blocking the lanes and had been able to secure the area, is that
14 right?

15 **MR. JOHN OSSOWSKI:** Yes.

16 **MS. ALEXANDRA HEINE:** And you also advised
17 Minister Mendicino that the CBSA was in a position to open the
18 Coutts POE on the next day.

19 **MR. JOHN OSSOWSKI:** Yes.

20 **MS. ALEXANDRA HEINE:** Sorry; on that day, on
21 February 15th.

22 **MR. JOHN OSSOWSKI:** Yes.

23 **MS. ALEXANDRA HEINE:** Okay, so we'll move on to
24 Ambassador Bridge.

25 So Ambassador Bridge, the blockades start on
26 February 7, and a service disruption was issued on that day.

27 And then if we can pull up the Institutional
28 Report again, Mr. Clerk, so DOJIR00000006. And if we could go

1 to page 38, please?

2 So this is a chart that was provided to us by the
3 CBSA that shows the commercial conveyances volume from January
4 15th to February 25th at the Ambassador Bridge, is that right?

5 **MR. JOHN OSSOWSKI:** Yes, it is.

6 **MS. ALEXANDRA HEINE:** Can you walk us through the
7 chart, sort of from February 8th to February 13th, and just
8 explain to us what those numbers mean?

9 **MR. JOHN OSSOWSKI:** Well, as you can see from the
10 preceding days and it's -- there's a very sort of predictable
11 weekly pattern here in terms of the movement of goods, so
12 obviously less on the weekends, and more as you build towards
13 the end of the week.

14 So, for example, February 1st, on Tuesday, we had
15 4,982 commercial conveyances, so that's the truck and trailer
16 across the border, and on February 8th as a result of the
17 disruption, five passages were recorded.

18 **MS. ALEXANDRA HEINE:** Right. And then if we go
19 to February 13th, for example, we see that there's zero
20 commercial conveyances that passed on that day?

21 **MR. JOHN OSSOWSKI:** Yes.

22 **MS. ALEXANDRA HEINE:** And so, Mr. Clerk, if we
23 could just scroll down. So traffic -- yes, keep going. Thank
24 you.

25 So traffic from the Ambassador Bridge was
26 diverted to Blue Water Bridge, is that right?

27 **MR. JOHN OSSOWSKI:** Yes.

28 **MS. ALEXANDRA HEINE:** Which is approximately two

1 hours away from the Ambassador Bridge?

2 **MR. JOHN OSSOWSKI:** I believe so, yes.

3 **MS. ALEXANDRA HEINE:** And, also, traffic was
4 diverted to Queenston?

5 **MR. JOHN OSSOWSKI:** Yes.

6 **MS. ALEXANDRA HEINE:** Which is further; I believe
7 it's four hours away, is that right?

8 **MR. JOHN OSSOWSKI:** Yeah, it's about 400
9 kilometres away.

10 **MS. ALEXANDRA HEINE:** Right. And it was also
11 diverted to the Peace Bridge, which is about four hours and 30
12 minutes away, is that right?

13 **MR. JOHN OSSOWSKI:** That's correct.

14 **MS. ALEXANDRA HEINE:** And so if we look at this
15 chart again, we see that from February 7th to February 13th, which
16 were the days that the blockade was impacting on the Ambassador
17 Bridge, we see that Blue Water Bridge has sort of absorbed the
18 traffic that would've normally gone through Ambassador Bridge;
19 is that fair?

20 **MR. JOHN OSSOWSKI:** I would disagree with that.
21 So the difference is -- if you look at, again, the Tuesday
22 before, the Blue Water Bridge processed 2,800 vehicles and there
23 was 2,000 more vehicles on February 8th, so that's only part of
24 what would have normally gone through at the Ambassador Bridge.

25 **MS. ALEXANDRA HEINE:** Right. And the other part
26 would have presumably gone through Peace Bridge which, if we
27 scroll down, we see that Peace Bridge also has an elevated
28 amount of commercial conveyances on those days.

1 **MR. JOHN OSSOWSKI:** Well, again, if you look at
2 the numbers, the difference is only about 250. So it's not the
3 5,000 or so that would have normally come through on that day.

4 **MS. ALEXANDRA HEINE:** Right. And there was also
5 some traffic that was absorbed by Queenston.

6 **MR. JOHN OSSOWSKI:** Yes, again, but if you do the
7 math, it wasn't fully absorbed in terms of what would normally
8 pass at the Ambassador Bridge. And I think the important part
9 to remember here is even though they might have gotten across,
10 it depends on the nature of what they were bringing across. If
11 it was for the auto sector, driving four hours away, and then
12 coming back another four hours would've had impact, and it
13 obviously did. And certainly for livestock, it would've been
14 not feasible to do something like that either.

15 So it really depended on the load, but if you do
16 the math, there was not a complete replacement, despite the fact
17 that these other ports of entry were potentially available for
18 them to use.

19 **MS. ALEXANDRA HEINE:** Right. So was CBSA
20 tracking what happened to those commercial vehicles?

21 **MR. JOHN OSSOWSKI:** No.

22 **MS. ALEXANDRA HEINE:** They weren't -- no? Okay.

23 **MR. JOHN OSSOWSKI:** No. We just -- we just
24 simply tracked the passages through our systems.

25 **MS. ALEXANDRA HEINE:** Right. So, it's possible
26 that those vehicles went home; it's also possible that they
27 entered in a different manner?

28 **MR. JOHN OSSOWSKI:** I couldn't speculate on that.

1 **MS. ALEXANDRA HEINE:** Okay. Thank you.

2 So is it fair to say that most of the commercial
3 vehicle traffic was successfully diverted to neighbouring ports
4 of entry, but not all of it?

5 **MR. JOHN OSSOWSKI:** I guess it depends on how you
6 define "Most".

7 **MS. ALEXANDRA HEINE:** Right.

8 **MR. JOHN OSSOWSKI:** So if you go day by day and
9 look at the numbers, I would say a portion of them, but I
10 wouldn't say most.

11 **MS. ALEXANDRA HEINE:** And what about at other
12 ports of entry?

13 **MR. JOHN OSSOWSKI:** I think, if the -- when I
14 looked at the data for the Prairie Region, so Coutts and what
15 would have gone through some of the other ports of entry, I
16 think there was a higher level of substitution there, if you
17 will, in terms of finding another way to get across.

18 **MS. ALEXANDRA HEINE:** Right.

19 **MR. JOHN OSSOWSKI:** But it's less so in southern
20 Ontario.

21 **MS. ALEXANDRA HEINE:** Okay. So, it's fair to say
22 that southern Ontario, the commercial traffic was diverted
23 slightly less successfully than some of the other ports of
24 entry?

25 **MR. JOHN OSSOWSKI:** That's my understanding,
26 yeah.

27 **MS. ALEXANDRA HEINE:** But the other ports of
28 entries were able to successfully divert commercial traffic,

1 largely.

2 **MR. JOHN OSSOWSKI:** Yes. Yes.

3 **MS. ALEXANDRA HEINE:** Thank you.

4 And so in Emerson I understand that there were
5 five days where traffic was largely not getting through, and
6 that was from February 12th to the 15th, is that right?

7 **MR. JOHN OSSOWSKI:** Correct.

8 **MS. ALEXANDRA HEINE:** Sorry; I guess that's four
9 days. Yes. And traffic was redirected to two neighbouring
10 ports of entry, which were Tolstoi and Gretna, is that right?

11 **MR. JOHN OSSOWSKI:** That's correct.

12 **MS. ALEXANDRA HEINE:** And your colleague, Brad
13 Wozny -- Emerson falls also within his region -- explained that
14 although those two ports of entry, so Tolstoi and Gretna, were
15 not equipped to process large volumes of commercial traffic, his
16 knowledge was that all vehicles carrying commercial goods were
17 diverted -- that were diverted made it across the border; is
18 that consistent with your recollection?

19 **MR. JOHN OSSOWSKI:** That's correct. And, in
20 fact, we -- neither Tolstoi or Gretna are designated commercial
21 ports of entry and if -- we actually included pictures of them
22 in the Institutional Report; you ---

23 **MS. ALEXANDRA HEINE:** Right.

24 **MR. JOHN OSSOWSKI:** --- can see that they're
25 actually very small operations without the appropriate
26 facilities to conduct ---

27 **MS. ALEXANDRA HEINE:** Right.

28 **MR. JOHN OSSOWSKI:** --- normal commercial

1 operations.

2 **MS. ALEXANDRA HEINE:** Right. But Brad Wozny,
3 Regional Director -- Regional General Director Wozny was able to
4 work with the US authorities and with the Canadian authorities
5 to outfit those neighbouring ports of entry so they would be
6 able to process some of those commercial vehicles.

7 **MR. JOHN OSSOWSKI:** That's correct. And making
8 sure that they had the staff there that were trained and to do
9 that type of function.

10 **MS. ALEXANDRA HEINE:** Right. So a resource
11 diversion ---

12 **MR. JOHN OSSOWSKI:** Yes.

13 **MS. ALEXANDRA HEINE:** --- basically? Right. And
14 lastly, the other main port of entry where a blockade happened
15 was Pacific Highway. We touched on that briefly, but I
16 understand -- and this is from your colleague, Nina Patel, who's
17 the Regional General Director of the Pacific Division, or the
18 Pacific Region.

19 **MR. JOHN OSSOWSKI:** Yeah.

20 **MS. ALEXANDRA HEINE:** And in her interview
21 summary, which we don't need to pull, but for the record it's
22 WTS00000045, traffic was rerouted from Pacific Highway on
23 February 12th, 13th, 14th and 15th; is that right?

24 **MR. JOHN OSSOWSKI:** I believe so, yes.

25 **MS. ALEXANDRA HEINE:** And it was -- they were
26 redirected to the neighbouring ports of entry of Aldergrove,
27 which is about 20 kilometres away from Pacific Highway?

28 **MR. JOHN OSSOWSKI:** That's correct.

1 **MS. ALEXANDRA HEINE:** And Huntington, which is
2 about 40 kilometres away?

3 **MR. JOHN OSSOWSKI:** That's correct.

4 **MS. ALEXANDRA HEINE:** And I understand that
5 Aldergrove and Huntington are commercial ports of entry?

6 **MR. JOHN OSSOWSKI:** I don't believe Aldergrove
7 is, but I could be wrong.

8 **MS. ALEXANDRA HEINE:** I think your colleague,
9 Nina Patel, said that they were. They just didn't have the same
10 commercial vehicle capacity as ---

11 **MR. JOHN OSSOWSKI:** Okay.

12 **MS. ALEXANDRA HEINE:** --- Pacific Highway.

13 **MR. JOHN OSSOWSKI:** Yeah, they might not have had
14 a same number of lanes available for ---

15 **MS. ALEXANDRA HEINE:** Exactly.

16 **MR. JOHN OSSOWSKI:** --- processing.

17 **MS. ALEXANDRA HEINE:** Yeah, that's exactly right.
18 So in the email that we showed you earlier, which we don't need
19 to pull up again, but it was the email where you advised
20 Minister Mendocino in regards to the Coutts port of entry; do
21 you recall that?

22 **MR. JOHN OSSOWSKI:** Yes.

23 **MS. ALEXANDRA HEINE:** And you also advised him
24 that at 11:05 p.m. local time on February 14th, the RCMP had
25 successfully cleared and opened north and southbound roads at
26 the Pacific Highway for the resumption of traffic; is that
27 right?

28 **MR. JOHN OSSOWSKI:** That's correct.

1 **MS. ALEXANDRA HEINE:** And so the traffic flow had
2 resumed and there were very few protesters remaining on site,
3 which is what you advised him of?

4 **MR. JOHN OSSOWSKI:** Yes.

5 **MS. ALEXANDRA HEINE:** Sorry?

6 **MR. JOHN OSSOWSKI:** Yes.

7 **MS. ALEXANDRA HEINE:** Thank you. And so you've
8 mentioned that when traffic is diverted, there's an increase in
9 border wait times, truckers have to drive longer to get to their
10 destinations. In the case of Ambassador Bridge -- thank you --
11 in the case of Ambassador Bridge, there were some impacts on
12 supply chains?

13 **MR. JOHN OSSOWSKI:** Absolutely. So I think it's
14 closer to 200 kilometres away from Ambassador Bridge to the
15 Bluewater Bridge. The Bluewater Bridge has 7 commercial lanes
16 compared to the Ambassador's 15. You know, given the fact that
17 processing time takes the same, you're trying to squeeze more
18 volume through a smaller sort of sieve, if you will. And at one
19 point, I heard reports that the traffic lineup was 10 kilometres
20 long at the Bluewater Bridge. So that had a significant impact.

21 **MS. ALEXANDRA HEINE:** And there was a
22 significant, or a specific impact on the automobile industry; is
23 that right?

24 **MR. JOHN OSSOWSKI:** Absolutely, just because of
25 the just in time manufacturing sector in southern Ontario where
26 the whole process is set up to not have inventory on hand, but
27 have it delivered as it's required, so it's very finely tuned.

28 **MS. ALEXANDRA HEINE:** Right. And the Ambassador

1 Bridge blockade was cleared up on February 13th as a result of
2 enforcement action; is that right?

3 **MR. JOHN OSSOWSKI:** I think it was February 14th
4 we reopened.

5 **MS. ALEXANDRA HEINE:** Right. You reopened on
6 February 14th, but because the protesters had cleared on February
7 13th?

8 **MR. JOHN OSSOWSKI:** That's correct.

9 **MS. ALEXANDRA HEINE:** Right. Overall, would you
10 say that the CBSA responded well to these blockades?

11 **MR. JOHN OSSOWSKI:** I was very proud of the way
12 the organization responded to it. I mean, I think that -- I
13 can't emphasize enough how unpredictable and escalating this was
14 for us, and it was more than just the ports of entry that you're
15 referring to, and certainly, when you look through our
16 institutional report, this was literally from coast to coast.
17 And obviously, some suffered more severe disruptions than
18 others, but it really kept us on our toes in terms of trying to
19 anticipate and work with our American colleagues and the local
20 police of jurisdiction to make sure that we continue to manage
21 the border effectively.

22 **MS. ALEXANDRA HEINE:** Right. And CBSA took --
23 you'd say took active steps to mitigate the impacts?

24 **MR. JOHN OSSOWSKI:** Absolutely.

25 **MS. ALEXANDRA HEINE:** And it staffed alternative
26 ports of entry as well?

27 **MR. JOHN OSSOWSKI:** That and as well worked with
28 all police of jurisdiction. If they were going to set up a

1 command centre, we would embed ourselves in there, so we had
2 good situational awareness, to the point, you know, the Port
3 Harding that we talked about earlier in terms of installing
4 cameras to make sure that officers were safe in their operating
5 environment ---

6 **MS. ALEXANDRA HEINE:** Right.

7 **MR. JOHN OSSOWSKI:** --- working with their U.S.
8 colleagues, so they could understand what they might need to do
9 in terms of reallocating their resources. So it was a very busy
10 time.

11 **MS. ALEXANDRA HEINE:** Right. And as we talked
12 about earlier, CBSA was able to successfully divert much of the
13 commercial traffic, not all of it, especially at Ambassador
14 Bridge, but a lot of it, due to the steps that it took?

15 **MR. JOHN OSSOWSKI:** Yes.

16 **MS. ALEXANDRA HEINE:** I'm going to now turn to
17 your role specifically during the convoy. So as President of
18 the CBSA, you were first in command; is that right?

19 **MR. JOHN OSSOWSKI:** That's true.

20 **MS. ALEXANDRA HEINE:** And you reported to
21 Cabinet?

22 **MR. JOHN OSSOWSKI:** I reported to the Minister of
23 Public Safety.

24 **MS. ALEXANDRA HEINE:** And that's because CBSA
25 falls within the general umbrella of Public Safety; is that
26 right?

27 **MR. JOHN OSSOWSKI:** All of the Deputy heads
28 report directly to the Minister.

1 **MS. ALEXANDRA HEINE:** To the Minister, you mean
2 Minister Mendocino?

3 **MR. JOHN OSSOWSKI:** Yes.

4 **MS. ALEXANDRA HEINE:** And Deputy heads, you mean
5 of the agencies that fall within Public Safety's mandate?

6 **MR. JOHN OSSOWSKI:** Yes, so CSIS, RCMP ---

7 **MS. ALEXANDRA HEINE:** Right.

8 **MR. JOHN OSSOWSKI:** --- CBSA, Correctional
9 Service.

10 **MS. ALEXANDRA HEINE:** Right. How did you report
11 to him? So was it oral briefings, written briefings?

12 **MR. JOHN OSSOWSKI:** Emails, text messages, oral
13 briefings, written briefings, yes.

14 **MS. ALEXANDRA HEINE:** And how often?

15 **MR. JOHN OSSOWSKI:** Very frequently.

16 **MS. ALEXANDRA HEINE:** A few times a day?

17 **MR. JOHN OSSOWSKI:** Yes.

18 **MS. ALEXANDRA HEINE:** And your second in command
19 was your Executive Vice-President who at the time was Ted
20 Gallivan?

21 **MR. JOHN OSSOWSKI:** Correct.

22 **MS. ALEXANDRA HEINE:** So I understand that you
23 attended meetings throughout with officials and at the political
24 level?

25 **MR. JOHN OSSOWSKI:** That's correct.

26 **MS. ALEXANDRA HEINE:** You attended Deputy
27 Minister Committee on Operational Coordination meetings and ---

28 **MR. JOHN OSSOWSKI:** Yeah.

1 **MS. ALEXANDRA HEINE:** --- we refer to ---

2 **MR. JOHN OSSOWSKI:** DMOCC?

3 **MS. ALEXANDRA HEINE:** --- the DMOCCs. Right.

4 **MR. JOHN OSSOWSKI:** Yeah.

5 **MS. ALEXANDRA HEINE:** And sometimes, I
6 understand, you've sent Mr. Gallivan as your delegate to those
7 meetings or ---

8 **MR. JOHN OSSOWSKI:** That's correct.

9 **MS. ALEXANDRA HEINE:** Okay. So you didn't attend
10 all of those?

11 **MR. JOHN OSSOWSKI:** Correct.

12 **MS. ALEXANDRA HEINE:** And you also attended
13 meetings of the Cabinet Committee on Safety, Security and
14 Emergencies; is that right?

15 **MR. JOHN OSSOWSKI:** Yes.

16 **MS. ALEXANDRA HEINE:** And we refer to that as the
17 SSE.

18 **MR. JOHN OSSOWSKI:** Yeah.

19 **MS. ALEXANDRA HEINE:** And so there were three
20 meetings, the 3rd, the 6th and the 8th. Did you attend all of
21 those meetings?

22 **MR. JOHN OSSOWSKI:** I don't recall exactly which
23 ones but ---

24 **MS. ALEXANDRA HEINE:** I think you attended the 3rd
25 and the 6th and Mr. Gallivan attended the 8th. Does that refresh
26 your memory?

27 **MR. JOHN OSSOWSKI:** That sounds right.

28 **MS. ALEXANDRA HEINE:** Okay. And you also

1 attended meetings of the Incident Response Group?

2 **MR. JOHN OSSOWSKI:** I did.

3 **MS. ALEXANDRA HEINE:** And those occurred on the
4 10th, 12th and 13th, and then every day from the 15th to the 23rd, I
5 understand?

6 **MR. JOHN OSSOWSKI:** I believe so, yes.

7 **MS. ALEXANDRA HEINE:** Do you recall whether you
8 attended all of those meetings or only some?

9 **MR. JOHN OSSOWSKI:** I think most of them, but I
10 don't think that was all of them.

11 **MS. ALEXANDRA HEINE:** Okay. And if you weren't
12 at one of those meetings, you would have sent your delegate, I
13 assume?

14 **MR. JOHN OSSOWSKI:** Yeah, Ted would have went.

15 **MS. ALEXANDRA HEINE:** Right. And you also
16 attended some of the FPTCPPC meetings, which is the Federal
17 Provincial Territorial Crime Prevention and Policing Committee;
18 is that right?

19 **MR. JOHN OSSOWSKI:** That's correct.

20 **MS. ALEXANDRA HEINE:** So I'm actually going to
21 take you to a read out of that committees -- one of the meetings
22 of that committee, which happened on February 7th. So that's
23 SAS0000000012, Mr. Clerk, please? And if we go down to page 2?
24 So we see that you gave an update here,

25 "..."major commercial vehicle traffic
26 [in Alberta]. One lane open [...].
27 Still protesters there, but allowing
28 through."

1 Presumably allowing some traffic through. And,
2 "Normally double. Other area is
3 ambassador bridge, blocking in
4 Windsor/Detroit area, major port of
5 entry. Blocked. Is a police of
6 jurisdiction issue, working with POJ to
7 share intel but comes down to
8 enforcement. Ready to work with PT
9 partners to share what we know. Will
10 continue to work with them."

11 Do you recall this?

12 **MR. JOHN OSSOWSKI:** Yes.

13 **MS. ALEXANDRA HEINE:** Is this the type of update
14 that you would have typically provided at these meetings?

15 **MR. JOHN OSSOWSKI:** Yeah, just to sort of give
16 everyone situational awareness of what we were seeing and
17 hearing and what potentially might happen.

18 **MS. ALEXANDRA HEINE:** Right. And if we go down
19 to page 3, keep going, keep going -- it might be a bit lower.
20 Keep going. Keep going. There we go. Sorry, page 4.

21 So you say,

22 "Issue is large trucks, tow trucks and
23 cannot compel drivers. Emergencies
24 Acts could be used to compel."

25 So we've heard a lot of evidence throughout this
26 inquiry that there was an issue procuring tow trucks, and that
27 one of the powers that the *Emergencies Act* provided was for
28 people -- or the police would be able to compel those tow truck

1 drivers to assist. So this is on February 7th. Were you -- does
2 this mean that you were contemplating the use of the *Emergencies*
3 *Act* as early as February 7th?

4 **MR. JOHN OSSOWSKI:** No, and in fact, when I saw
5 this read out, I looked at that and I was looking at the plural
6 of that. And I think in the context of the call with FPT
7 meeting that we were having. We were talking about provincial
8 emergency powers that could be brought to their -- to compel tow
9 trucks.

10 **MS. ALEXANDRA HEINE:** And your understanding with
11 that provincial emergency powers could be used to compel tow
12 trucks?

13 **MR. JOHN OSSOWSKI:** I wasn't sure who had them.
14 I understood afterwards that Alberta actually had that power,
15 but I wasn't sure who else might have that power.

16 **MS. ALEXANDRA HEINE:** And when you say "Alberta
17 might have had that power", what do you mean by that?

18 **MR. JOHN OSSOWSKI:** Under their *Emergency Act*.

19 **MS. ALEXANDRA HEINE:** Is that the Critical
20 Infrastructure ---

21 **MR. JOHN OSSOWSKI:** No, I think that's another
22 Act that they have the ability.

23 **MS. ALEXANDRA HEINE:** Their provincial emergency?

24 **MR. JOHN OSSOWSKI:** Yeah.

25 **MS. ALEXANDRA HEINE:** Okay. And your
26 understanding was that other provinces may or may not have had?

27 **MR. JOHN OSSOWSKI:** And that -- I think that's
28 what we were trying to discuss here, was how could we get these

1 tow trucks into action.

2 **MS. ALEXANDRA HEINE:** Was there ever any follow
3 up on that?

4 **MR. JOHN OSSOWSKI:** Not that I'm aware of.

5 **MS. ALEXANDRA HEINE:** Okay.

6 **MR. JOHN OSSOWSKI:** To make it clear, we had no
7 authority to procure tow trucks at the CBSA ourselves, and ---

8 **MS. ALEXANDRA HEINE:** Right.

9 **MR. JOHN OSSOWSKI:** --- had a very limited role
10 that we'll probably discuss later with respect to helping tow
11 trucks come in from the United States because of an agreement
12 that we have with U.S. CPB for emergency vehicles.

13 **MS. ALEXANDRA HEINE:** Right. Well, we can
14 discuss it now. So I understand that effectively, CBSA's role
15 could have been not the procurement of tow trucks, but
16 facilitating immigration for those tow trucks to come assist; is
17 that right?

18 **MR. JOHN OSSOWSKI:** Yeah. So normally there
19 would be -- you would -- to bring a vehicle like that in to work
20 in Canada, you need a work permit, and so what we would do is
21 say we would waive that requirement in the sense of the
22 emergency agreement that we have and allow them in and make sure
23 still that they weren't, you know, unable to enter so that they
24 didn't have any serious criminality issues, weren't bringing in
25 guns with them, or anything like that.

26 **MS. ALEXANDRA HEINE:** Right. And did you provide
27 that assistance for any of the ports of entry?

28 **MR. JOHN OSSOWSKI:** We did in Windsor, yes.

1 **MS. ALEXANDRA HEINE:** And how -- do you recall if
2 tow trucks actually came over the bridge?

3 **MR. JOHN OSSOWSKI:** They did, yes.

4 **MS. ALEXANDRA HEINE:** Any other ports of entry?

5 **MR. JOHN OSSOWSKI:** No.

6 **MS. ALEXANDRA HEINE:** All right. So Mr. Clerk,
7 if we could pull up SSM.NSC.CAN00000214?

8 While Mr. Clerk is pulling that up, Mr. Ossowski,
9 this is the meeting minutes from the February 12th IRG meeting,
10 which you attended?

11 **MR. JOHN OSSOWSKI:** M'hm.

12 **MS. ALEXANDRA HEINE:** And Mr. Clerk, it's on page
13 6, please. And keep going down. Sorry, page 7.

14 So we see here at the bottom that it says:

15 "The prime minister asked for an update
16 on other POEs and what is being done to
17 prevent further disruptions. The
18 minister of public safety and president
19 of CBSA --- "

20 --- that was you ---

21 "--- confirmed that there is real-time
22 reporting in all critical POEs and
23 ongoing engagement with local law
24 enforcement. If an authority or asset
25 gap is identified, departments remain
26 ready to respond. Currently, it
27 remains only three blocked POEs. There
28 was an attempt to block the Pacific

1 Highway, but police successfully
2 thwarted this attempt."

3 So I have a couple of questions about this. What
4 was meant by "if an authority or asset gap is identified,
5 departments remain ready to respond"?

6 **MR. JOHN OSSOWSKI:** Well, just whatever we had
7 within our authority to sort of deal with the situation and
8 collectively with respect to all of the partner departments.
9 You know, I was just -- I don't recall seeing this language
10 before, but I would say that I was referring to the fact that we
11 were looking collectively as deputy ministers at the time in
12 terms of any authorities or asset gaps to resolve the situation.

13 **MS. ALEXANDRA HEINE:** Right. And when you say
14 "Currently, it remains only the three blocked POEs" -- this is
15 on February 12th, so which ports of entry are you referring to
16 here?

17 **MR. JOHN OSSOWSKI:** It's current in my report
18 here, so I think it would have been the Ambassador Bridge,
19 Emerson ---

20 **MS. ALEXANDRA HEINE:** And presumably Coutts?

21 **MR. JOHN OSSOWSKI:** Yes, Coutts.

22 **MS. ALEXANDRA HEINE:** Okay.

23 **MR. JOHN OSSOWSKI:** Yeah.

24 **MS. ALEXANDRA HEINE:** So Emerson, Ambassador
25 Bridge, Coutts.

26 **MR. JOHN OSSOWSKI:** It's on page 54 of our
27 institutional report, all of the disruptions on February 12th.

28 **MS. ALEXANDRA HEINE:** Right, thank you.

1 And then if we can go to SSM.CAN.00000095?

2 While that's being brought up, Mr. Ossowski, this
3 is the February 13th IRG meeting minutes.

4 **MR. JOHN OSSOWSKI:** Yes.

5 **MS. ALEXANDRA HEINE:** Mr. Clerk, we'll just go
6 down to page 5. So the prime minister asked the minister of
7 public safety to outline additional actions that could be taken
8 by federal authorities to deal with and prevent further
9 blockades. Do you recall this?

10 **MR. JOHN OSSOWSKI:** Yes.

11 **MS. ALEXANDRA HEINE:** And the minister of public
12 safety explained that great progress had been made in clearing
13 and securing the Ambassador Bridge, but that there was no
14 definitive timeline for reopening?

15 **MR. JOHN OSSOWSKI:** Correct.

16 **MS. ALEXANDRA HEINE:** And but as we established
17 earlier, the Ambassador Bridge was reopened the next day?

18 **MR. JOHN OSSOWSKI:** Yes.

19 **MS. ALEXANDRA HEINE:** And he also noted that
20 enforcement actions were occurring in Coutts and Emerson. Do
21 you recall this?

22 **MR. JOHN OSSOWSKI:** Yes.

23 **MS. ALEXANDRA HEINE:** And lastly, that -- and
24 we'll skip the part about Ottawa -- at the Blue Water Bridge
25 crossing, the CBSA had also doubled its capacity for commercial
26 vehicles, allowing carriers additional corridors for cross-
27 border trade; is that right?

28 **MR. JOHN OSSOWSKI:** Correct.

1 **MS. ALEXANDRA HEINE:** And that was in response to
2 the Ambassador Bridge blockade?

3 **MR. JOHN OSSOWSKI:** Yes.

4 **MS. ALEXANDRA HEINE:** So that was the update that
5 Minister Mendicino provided. Did you also contribute anything
6 to this meeting?

7 **MR. JOHN OSSOWSKI:** Generally at these meetings I
8 would have provided any situational updates in terms of what was
9 happening at ports of entry and/or what we might have gathered
10 in terms of potential disruptions that would be happening in the
11 near future.

12 **MS. ALEXANDRA HEINE:** And when Minister Mendicino
13 gives an update like this, is the information that he's
14 conveying information that you have briefed him up on ---

15 **MR. JOHN OSSOWSKI:** Yes.

16 **MS. ALEXANDRA HEINE:** --- in the context of your
17 daily touching base?

18 **MR. JOHN OSSOWSKI:** Yeah, we would have, and/or
19 reports that we would have shared with the minister's office and
20 public safety, as well as other departments.

21 **MS. ALEXANDRA HEINE:** Right. And what kind of
22 reports were those?

23 **MR. JOHN OSSOWSKI:** We provided a number of
24 different reports, situational update reports, called the BLUFF
25 reports, Bottom Line Upfront reports that were very real time in
26 nature.

27 **MS. ALEXANDRA HEINE:** Right. And the Border
28 Operations Centre Situational reports that we talked about

1 earlier, those as well?

2 **MR. JOHN OSSOWSKI:** Yes.

3 **MS. ALEXANDRA HEINE:** So those were sent to both
4 Minister Mendicino's office and public safety?

5 **MR. JOHN OSSOWSKI:** Yes.

6 **MS. ALEXANDRA HEINE:** Okay. I'd like to now ask
7 you questions about the invocation of the *Emergencies Act*, and
8 sorry, the decision to invoke the *Emergencies Act*.

9 So earlier, we talked about how you and some of
10 the other deputy ministers discussed alternative authorities
11 that could be used; is that right?

12 **MR. JOHN OSSOWSKI:** Yes.

13 **MS. ALEXANDRA HEINE:** And in one of your deputy
14 minister briefing talking point packages, which I understand are
15 binders prepared for you either for DMOCCs or IRGs; is that
16 right?

17 **MR. JOHN OSSOWSKI:** Correct.

18 **MS. ALEXANDRA HEINE:** We don't need to pull it
19 up, but the reference for the record is SSM.NSC.CAN321. And so
20 that briefing package said that the CBSA considered various
21 avenues of deterrence so the NEXUS trusted trader status of a
22 commercial driver, cancellation of FAST applications, and other
23 options.

24 This is not the first time that those options had
25 been raised; is that right?

26 **MR. JOHN OSSOWSKI:** I believe so, yes.

27 **MS. ALEXANDRA HEINE:** It was not the first time
28 or ---

1 **MR. JOHN OSSOWSKI:** I don't think it was the
2 first time, no.

3 **MS. ALEXANDRA HEINE:** Right, because this was
4 February 13th, and if we go to February 10th, which actually, we
5 will pull this one up.

6 So this is an email from Mike Jones, who is
7 Minister Mendicino's chief of staff; is that right?

8 **MR. JOHN OSSOWSKI:** Correct.

9 **MS. ALEXANDRA HEINE:** To Mike Maka from
10 Transport, Samantha Khalil from PMO, and Zita, who is Bill
11 Blair's chief of staff; is that right?

12 **MR. JOHN OSSOWSKI:** Correct.

13 **MS. ALEXANDRA HEINE:** And she says:

14 "I've received these enforcement
15 options from CBSA which I've asked for
16 more context around. I understand that
17 it is part of a broader effort to
18 provide options to the clerk. I'm
19 tracking down from my side and Z is
20 going to check in with the NSIA."

21 So the clerk here would be the clerk of the Privy
22 Council; is that right?

23 **MR. JOHN OSSOWSKI:** I would assume so.

24 **MS. ALEXANDRA HEINE:** And then he goes on to list
25 some of the options that we just talked about, so the Trusted
26 Trader Program, Trusted Traveller Program, NEXUS, and others.

27 Do you know whatever happened to those deterrent
28 options that you put on the table?

1 **MR. JOHN OSSOWSKI:** Well, I think we ended up
2 dismissing the Trusted Trader Programs because these are
3 administered bilaterally with the United States, and so we just
4 weren't sure that we could do something very expeditiously here
5 in terms of what's referenced above as the Good Tariff or clause
6 for these purchase events in the program and try and leverage
7 that so that we would -- they would be aware that there was
8 consequences for their participation in the protest.

9 And then as well, the designated international
10 trade corridors, there, I think, I would just point out that
11 ports of entry up until the invocation of the *EMA* and the
12 regulations was not a critical infrastructure, and certainly the
13 trade corridors, the highways, were not federal, they also are
14 provincial responsibilities. And so the designation of the
15 routes to and from the ports of entry were an important aspect.

16 **MS. ALEXANDRA HEINE:** Right. Right. So the EMRs
17 designated the ports of entry and the trade corridors as
18 critical infrastructure?

19 **MR. JOHN OSSOWSKI:** Yes.

20 **MS. ALEXANDRA HEINE:** And we won't pull it up,
21 pursuant to section 6, made those exclusion zones. Is that
22 right?

23 **MR. JOHN OSSOWSKI:** Yes.

24 **MS. ALEXANDRA HEINE:** So ultimately none of these
25 options ever went anywhere?

26 **MR. JOHN OSSOWSKI:** Well, except for the trade
27 corridor piece.

28 **MS. ALEXANDRA HEINE:** Right.

1 **MR. JOHN OSSOWSKI:** Yes.

2 **MS. ALEXANDRA HEINE:** Right. Because of the
3 *Emergencies Act*. I mean prior to the *Emergencies Act*.

4 **MR. JOHN OSSOWSKI:** No.

5 **MS. ALEXANDRA HEINE:** And did you play a role in
6 the decision to invoke the *Emergencies Act*?

7 **MR. JOHN OSSOWSKI:** I simply provided advice from
8 the CBSA perspective in terms of managing the corridor.

9 **MS. ALEXANDRA HEINE:** Can you elaborate on that?

10 **MR. JOHN OSSOWSKI:** Well, the one thing, we
11 identified a gap in the sense that as we were starting to get to
12 the point of declaring the protest a prohibited protest, that
13 there was no ability for us to stop people from coming in and
14 foreign nationals from coming in and participate in that protest
15 if they were otherwise able to enter. So they met all the other
16 program requirements, the *Quarantine Act* requirements, whatever
17 else may be involved, but we identified that as a gap.

18 **MS. ALEXANDRA HEINE:** And when you say "we
19 identified" you mean you reported it to Cabinet?

20 **MR. JOHN OSSOWSKI:** Well, through -- first
21 through, obviously, through the deputy minister ---

22 **MS. ALEXANDRA HEINE:** Right.

23 **MR. JOHN OSSOWSKI:** --- colleagues and then
24 ultimately to Cabinet, yes.

25 **MS. ALEXANDRA HEINE:** Right. But you were not
26 asked for your advice on invoking the *Emergencies Act* ---

27 **MR. JOHN OSSOWSKI:** No.

28 **MS. ALEXANDRA HEINE:** --- or directly for your

1 input?

2 **MR. JOHN OSSOWSKI:** No.

3 **MS. ALEXANDRA HEINE:** So you never advised any of
4 the Cabinet members whether they should or should not invoke the
5 *Emergencies Act*?

6 **MR. JOHN OSSOWSKI:** No.

7 **MS. ALEXANDRA HEINE:** And so you just identified
8 this legislative gap to Cabinet.

9 And you've explained that the gap was that there
10 was no authority to turn somebody away in relation to wanting to
11 participate in a lawful protest; is that right?

12 **MR. JOHN OSSOWSKI:** Correct. I was surprised to
13 know at that time that we couldn't do that, that a foreign
14 national could enter the country for the purpose of
15 participating in a protest.

16 **MS. ALEXANDRA HEINE:** Right. And the CBSA was
17 concerned with this legislative gap in allowing foreign
18 nationals to come into the country to participate in a peaceful
19 protest?

20 **MR. JOHN OSSOWSKI:** Well, I think collectively,
21 when you look at the tools that we were discussing, at that
22 point in time we were trying to de-energise the situation, and
23 obviously allowing people to continue to come into the country
24 for the purpose of participating in a protest was inconsistent
25 with that.

26 **MS. ALEXANDRA HEINE:** And was it your
27 understanding that many U.S. or foreign nationals were coming
28 into the country to participate in the protest?

1 **MR. JOHN OSSOWSKI:** Well, certainly, as part of
2 the enhanced vigilance exam process that we invoked before the
3 *Emergencies Act*, we turned away people that intended to come and
4 participate in a protest or we suspected were going to
5 participate in a protest, but it was only because they weren't
6 vaccinated or didn't meet up with some other program legislation
7 requirement.

8 **MS. ALEXANDRA HEINE:** Right. So they would go to
9 secondary and be turned away because they didn't meet the
10 requirements of the *Quarantine Act*, for example.

11 **MR. JOHN OSSOWSKI:** Yeah.

12 **MS. ALEXANDRA HEINE:** Okay. Did the CBSA
13 consider whether they had the authority to turn away foreign
14 nationals on the basis that they wanted to participate in an
15 unlawful protest?

16 **MR. JOHN OSSOWSKI:** I don't quite understand the
17 question because, like, it's not a prohibition on entry under
18 the *Immigration Refugee Protection Act* to come and participate
19 in a protest. So what the EMR added to was to our abilities
20 under both the *Customs Act* and the *Immigration Refugee*
21 *Protection Act* for a new prohibition on entry.

22 **MS. ALEXANDRA HEINE:** Right. But the *Immigration*
23 *Refugee Protection Act* would -- it does set out
24 admissibility/inadmissibility ---

25 **MR. JOHN OSSOWSKI:** Yes.

26 **MS. ALEXANDRA HEINE:** --- criteria; right?

27 **MR. JOHN OSSOWSKI:** Yes.

28 **MS. ALEXANDRA HEINE:** And if somebody went to the

1 border and there was reasonable grounds or they were suspected
2 to go -- wanted to be admitted to Canada to engage in unlawful
3 activity, would that be sufficient basis to turn them away?

4 **MR. JOHN OSSOWSKI:** Certainly, if the officer
5 felt that they weren't here for a lawful you could turn them
6 away.

7 **MS. ALEXANDRA HEINE:** Okay.

8 **MR. JOHN OSSOWSKI:** But -- if someone, you know,
9 showed up at the border today and said "I want to come to Ottawa
10 to protest something" that's not a reason to prohibit their
11 entry if they're otherwise admissible.

12 **MS. ALEXANDRA HEINE:** Right. So the issue -- the
13 legislative gap was specific to turning foreign nationals away
14 who wanted to participate in a lawful, peaceful protest?

15 **MR. JOHN OSSOWSKI:** In an unlawful protest. In a
16 -- what was defined in the *Act* as a prohibited protest I believe
17 is the language.

18 **MS. ALEXANDRA HEINE:** Right. And -- so I guess
19 what I'm getting at is it seems like the *Immigration Refugee*
20 *Protection Act* would have already given the CBSA that power at
21 the point in which the protests were deemed to have been
22 unlawful.

23 **MR. JOHN OSSOWSKI:** Not specifically, because it
24 wasn't a specific prohibition on entry into the country.

25 **MS. ALEXANDRA HEINE:** What do you mean by that?

26 **MR. JOHN OSSOWSKI:** It -- it's not -- it wasn't
27 part of -- there are tools that were available to officers to
28 exercise. So we don't know where you're going to go once you

1 come in.

2 **MS. ALEXANDRA HEINE:** Right. But if there were
3 reasonable grounds or there was a suspicion that that was there,
4 and destination, then that would be a sufficient basis to turn
5 them away?

6 **MR. JOHN OSSOWSKI:** I believe so, but you're
7 assuming that they're going to tell us the truth about where
8 they're going.

9 **MS. ALEXANDRA HEINE:** Right. And I mean, border
10 services officers are trained to assess whether somebody is
11 telling the truth or not?

12 **MR. JOHN OSSOWSKI:** Yes.

13 **MS. ALEXANDRA HEINE:** Right. So you talked
14 briefly about how a lot of foreign nationals were turned away
15 because they didn't meet the requirements under the *Quarantine*
16 *Act* if they weren't vaccinated, for example, and my counsel --
17 my co-counsel will get into this further, so I'll leave that to
18 him. But I guess my question is whether that was sufficient to
19 attenuate CBSA's concerns that foreign nationals were entering
20 to participate in the protest, the idea that they would most
21 likely be turned away pursuant to the *Quarantine Act*
22 requirements?

23 **MR. JOHN OSSOWSKI:** Well, as I said, yeah, I
24 think it was -- we were fortunate in that we had these other
25 prohibitions on entry at play to prevent people from coming in
26 and participating, but there were people that came in that met
27 all the requirements and could have gone to the protest.

28 **MS. ALEXANDRA HEINE:** Right. Okay, thank you.

1 So I only have about five minutes left before I'm going to turn
2 it over to Mr. Cameron, so I just want to pull up one last
3 document.

4 And that's, Mr. Clerk, COM00000670.

5 So this is the government's section 58
6 explanation. Are you familiar with this document?

7 **MR. JOHN OSSOWSKI:** Yes.

8 **MS. ALEXANDRA HEINE:** Did you have any role in
9 drafting it?

10 **MR. JOHN OSSOWSKI:** I think we might have given
11 some factual inputs that were used later on in the document with
12 respect to sort of the situation at the border.

13 **MS. ALEXANDRA HEINE:** Okay. So inputs, but you
14 didn't hold the pen?

15 **MR. JOHN OSSOWSKI:** No, absolutely not.

16 **MS. ALEXANDRA HEINE:** Right.

17 So if we go to page 7. Yeah, right there. So
18 just a little bit up, just where it says, "In addition".

19 So it says -- it describes two events where it's
20 -- that occurred, one at the Pacific Highway port of entry, and
21 one in Fort Erie, and it says that at those two locations:

22 "...protesters had breached the
23 confines of the CBSA plaza resulting in
24 CBSA officers..."

25 **COMMISSIONER ROULEAU:** Could you slow down,
26 please?

27 **MS. ALEXANDRA HEINE:** Thank you,

28 Mr. Commissioner:

1 "...locking down the office to prevent
2 additional protesters from gaining
3 entry."

4 So the event at Fort Erie happened on the 12th;
5 is that right?

6 **MR. JOHN OSSOWSKI:** I believe so, yes.

7 **MS. ALEXANDRA HEINE:** And according to a
8 situational report, it was 120 vehicles that converged on -- in
9 the area of the Peace Bridge; is that right?

10 **MR. JOHN OSSOWSKI:** I believe so, yes.

11 **MS. ALEXANDRA HEINE:** And protesters accessed the
12 CBSA plaza, which I understand to mean sort of the parking lot -
13 --

14 **MR. JOHN OSSOWSKI:** Yes, the buildings, yes.

15 **MS. ALEXANDRA HEINE:** --- on foot. And then it
16 says that police and the CBSA were able to direct the protesters
17 to leave after 20 minutes. Is that right?

18 **MR. JOHN OSSOWSKI:** Well, the officers, in the
19 case of Fort Erie, locked down the building because they were
20 trying to get access to the building, and I think the building
21 was locked down for 12 hours. And I would just actually make a
22 correction here that at Pacific Highway, there was a vehicle
23 that you may recall there was pictures of in the media that had
24 sort of military camouflage paint that breached a barrier, but I
25 don't believe that they actually locked down the building in the
26 Pacific Highway region.

27 **MS. ALEXANDRA HEINE:** Right, and we have evidence
28 from Dwayne McDonald who's the Commander for the "E" Division of

1 the RCMP and he describes the event, basically, as a -- exactly
2 as you've just put it, so that there was sort of a painted
3 vehicle that crossed a threshold but it wasn't a breach, per se.

4 **MR. JOHN OSSOWSKI:** Yes.

5 **MS. ALEXANDRA HEINE:** And he also observed that
6 the media reports on that specific event were not accurate;
7 would you agree with that?

8 **MR. JOHN OSSOWSKI:** I couldn't speculate without
9 reading them, yes.

10 **MS. ALEXANDRA HEINE:** Okay. Do you have any
11 doubt to -- any reason to doubt his evidence?

12 **MR. JOHN OSSOWSKI:** No.

13 **MS. ALEXANDRA HEINE:** And just for the record,
14 I'll note that that's WTS00000069 at page 20, which is the RCMP
15 Panel Witness Summary, and Dwayne McDonald's evidence is in
16 there. So my last question for you before I turn it over to my
17 colleague is that the Section 58 explanation also talks broadly
18 about the economic impacts of the border blockades, and I
19 understand that CBSA itself did not conduct any analysis on the
20 economic impacts; is that right?

21 **MR. JOHN OSSOWSKI:** That's correct. We just
22 simply track the number of conveyances that cross the border
23 and, as well, we do something else called "value-for-duty", but
24 that's -- wouldn't be used for and kind of real economic value
25 impact analysis.

26 **MS. ALEXANDRA HEINE:** Okay. Did you say "value-
27 for-duty"?

28 **MR. JOHN OSSOWSKI:** Yeah.

1 **MS. ALEXANDRA HEINE:** Okay. And who did you
2 provide that data to?

3 **MR. JOHN OSSOWSKI:** All of that data is provided
4 as a matter of course to other government departments,
5 Department of Finance, Statistics Canada, other entities that
6 sort of track these types of things.

7 **MS. ALEXANDRA HEINE:** And so they would have,
8 then, undertaken the economic analysis ---

9 **MR. JOHN OSSOWSKI:** I assume so.

10 **MS. ALEXANDRA HEINE:** --- based on your data you
11 send them? Okay. Okay, thank you so much, Mr. Ossowski. Those
12 are all of my questions. I'm going to pass it over to Mr.
13 Cameron now.

14 **MR. JOHN OSSOWSKI:** Okay.

15 **--- EXAMINATION IN-CHIEF BY MR. GORDON CAMERON:**

16 **MR. GORDON CAMERON:** Good morning, sir. My
17 name's Gordon Cameron. I have just a few questions to finish
18 off your examination by Commission counsel this morning. Let me
19 begin, just so that I don't get it wrong for the whole
20 examination that I did, do you prefer Ossowski or Ossowski?

21 **MR. JOHN OSSOWSKI:** Ossowski.

22 **MR. GORDON CAMERON:** Ossowski, thank you. And
23 I'll apologize if I speak in the present tense because I
24 acknowledge you've since retired. So if I talk to you as if
25 you're still in charge of CBSA, just ---

26 **MR. JOHN OSSOWSKI:** I still feel like I am.

27 **MR. GORDON CAMERON:** Yeah, just make the time
28 change on my behalf. But certainly, when you were at CBSA, CBSA

1 had, and you would have had overall responsibility as its
2 president or deputy minister, the Intelligence and Enforcement
3 Branch?

4 **MR. JOHN OSSOWSKI:** That's correct.

5 **MR. GORDON CAMERON:** And am I correct -- I'm just
6 going by website information, so if I get it wrong, please
7 correct me -- that Ted Gallivan, as executive vice president,
8 would have had that under his purview as well?

9 **MR. JOHN OSSOWSKI:** No, at the time, it would
10 have been Vice President Scott Harris that was in charge of the
11 Intelligence and Enforcement Branch.

12 **MR. GORDON CAMERON:** Thank you. And tell me
13 briefly why CBSA has an Intelligence and Enforcement Branch.

14 **MR. JOHN OSSOWSKI:** So what that branch was
15 responsible for is giving the frontline the situational
16 awareness in terms of targeting, for example -- so we have a
17 targeting centre -- and where we do -- and try to add value to
18 officers on the frontline in terms of things that they need to
19 be aware of. So, for example, if law enforcement partners want
20 lookouts on the system, they're the ones that would sort of
21 manage that type of thing. If somebody's of interest coming
22 into the country or leaving the country, all -- they would be
23 the relationship lead with all of the other national security
24 partners on intelligence that would be important in terms of the
25 day-to-day functioning of the border. They're also responsible
26 for the removals of the people that are found to be inadmissible
27 to Canada after they've gone through due process. So it's a
28 complicated job.

1 **MR. GORDON CAMERON:** And it's a fairly
2 substantial department within CBSA?

3 **MR. JOHN OSSOWSKI:** The branch?

4 **MR. GORDON CAMERON:** Yes.

5 **MR. JOHN OSSOWSKI:** Yes, it is.

6 **MR. GORDON CAMERON:** Yeah. And they produce what
7 we've learned to call "intelligence products" for use by CBSA
8 management and personnel?

9 **MR. JOHN OSSOWSKI:** Well, they -- I would say
10 that in term of the national security apparatus, we're largely a
11 consumer of intelligence, so they would do, as I said, the
12 liaising with other partners domestically and abroad to create
13 products that would be useful to the frontline in terms of how
14 they're managing the border on a day-to-day basis.

15 **MR. GORDON CAMERON:** Fair enough. So they would
16 take in information and distill from it the information that's
17 most likely relevant to ---

18 **MR. JOHN OSSOWSKI:** Correct.

19 **MR. GORDON CAMERON:** --- CBSA's mandate and then
20 distribute within the organization?

21 **MR. JOHN OSSOWSKI:** Correct.

22 **MR. GORDON CAMERON:** Thank you. And it seems,
23 just by instinct, that the two concerns here will be using that
24 intelligence and those assessments to protect the security of
25 Canada in terms of people who might be coming into the country
26 and to protect your personnel who have to deal with these
27 situations on the frontline; is that ---

28 **MR. JOHN OSSOWSKI:** Absolutely.

1 **MR. GORDON CAMERON:** Thank you. Now, you
2 produced for the Commission, helpfully, a series of these
3 situational reports and intelligence assessments, if I can use
4 that term, and I'd like to call up the first of these, if I
5 could, Mr. Clerk, SSM.NSC.CAN000000068. I say the "first"; it
6 isn't the first sequentially, it's just the first I'm going to
7 refer to. And we can see that is a Situation Report for
8 February 14th at 10:30 in the morning. Is this a type that
9 you're familiar with, Mr. Ossowski?

10 **MR. JOHN OSSOWSKI:** That's correct, yeah.

11 **MR. GORDON CAMERON:** And if the clerk can just
12 scroll down the page so that people looking at the screen can
13 see the -- just the type of content in this sort of report. We
14 see a description of each -- of several ports of entry. And
15 keep going, Mr. Clerk. I'm going to ask you ultimately to get
16 through to page 8 but just scrolling through, people can see the
17 type of statistical and observational analysis that this type of
18 report would give to your personnel for the objectives we just
19 described.

20 And when we get through to page 8, there's a
21 table and then a heading, "Intelligence and Law Enforcement" --
22 sorry, "Intelligence and Enforcement", and then underneath that,
23 a heading, "Intelligence Landscape". And I'm going to make the
24 point of observing the parenthetical comment, "(Updates in
25 red)", and then the first heading there is "BLUF". Can you tell
26 us what that acronym is for? Do you remember?

27 **MR. JOHN OSSOWSKI:** Bottom Line Up Front.

28 **MR. GORDON CAMERON:** Okay. Bottom Line Up Front,

1 so it's a compact presentation at the top of the assessment that
2 gives the high-level view?

3 **MR. JOHN OSSOWSKI:** Yeah, and this was an
4 evergreen document and so it was just so you don't have to
5 scroll through the entire thing every day. You can get to the -
6 --

7 **MR. GORDON CAMERON:** To the bottom line.

8 **MR. JOHN OSSOWSKI:** Very quickly.

9 **MR. GORDON CAMERON:** Right. And the words there:
10 "As of February 14th, 2022, at 08:30 ET,
11 the overall threat to CBSA officers and
12 infrastructure is low."

13 And this is February 14th, the convoy and the
14 protests have been going on for more than a couple of weeks. I
15 just wonder if you can confirm for me, because it's certainly
16 the impression that Commission counsel got, that that had been
17 the BLUF in these reports throughout February, that is exactly
18 as it appears there. Is that your recollection too?

19 **MR. JOHN OSSOWSKI:** Yeah. I don't think it ever
20 changed from low. And I would say overall, we're looking at the
21 entire national picture here, right, as opposed to little things
22 that might be happening at individual ports of entry. But
23 overall, the threat was low throughout the entire period.

24 **MR. GORDON CAMERON:** Thank you. Now ---

25 **MR. JOHN OSSOWSKI:** And if I just may add, what
26 I'm really referring to here is, and it says officers and
27 infrastructure, that is our domain; right? So there's obviously
28 a duty of care responsibility to the officers to make sure that

1 they're trained and operating in a safe environment, and as well
2 that the infrastructure itself is properly protected.

3 **MR. GORDON CAMERON:** Thank you. That's actually
4 a very helpful addition for the point I'd like to see if we can
5 learn from the next document.

6 And so, Mr. Clerk, if you could pull up, same
7 prefix, but 1519? SSM.NSC.CAN.00001519.

8 And so here we have the Situational Report. And
9 you'll recall that the last one was for 10:30 in the morning.
10 We are now at 4:00 p.m. in the afternoon; correct?

11 **MR. JOHN OSSOWSKI:** That's correct.

12 **MR. GORDON CAMERON:** And was it typical for these
13 Situational Reports, at least during -- you'll note that it's a
14 Situational Report specific to the COVID-19 mandate protest.
15 Was it typical -- and it's our impression from your documents
16 that these would be produced twice a day, one in the morning and
17 one in the afternoon?

18 **MR. JOHN OSSOWSKI:** That's my recollection.

19 **MR. GORDON CAMERON:** And again, Mr. Clerk, if you
20 can just scroll through and take us down to page 8?

21 Again, the same type of situational analysis of
22 the various crossings with tables, and statistics, and maps, and
23 what not.

24 Then we get, again, our BLUF, Bottom Line Up
25 Front. And we have the same statement as we saw in the last
26 one, and that as you confirmed, had been in all of the BLUF,
27 Bottom Line encapsulations of intelligence and enforcement at
28 this time, February 14th, 2022, though now later in the day. The

1 overall threat to CBSA officers and infrastructure is low, but
2 there's now an addition.

3 **MR. JOHN OSSOWSKI:** M'hm.

4 **MR. GORDON CAMERON:** And the addition to this
5 BLUF is:

6 "There has been a significant operational
7 impact that may result in a threat to
8 Canada's economic security and
9 prosperity."

10 Now, you know why you're here today, and we've
11 all been watching the progress of events in the first couple of
12 months of February, so you'll appreciate the significance of the
13 date, February 14th; right?

14 **MR. JOHN OSSOWSKI:** Yes.

15 **MR. GORDON CAMERON:** As the date that the
16 Government invoked the *Emergencies Act*?

17 **MR. JOHN OSSOWSKI:** Yes.

18 **MR. GORDON CAMERON:** And do you recognize that
19 language, "There has been a significant operational impact that
20 may result in a threat to Canada's economic security and
21 prosperity" as language that is lifted from the section 58
22 justification that Canada used for the invocation of the
23 *Emergencies Act*?

24 **MR. JOHN OSSOWSKI:** I'm not aware that it's
25 exactly the same language, but if you say so.

26 **MR. GORDON CAMERON:** I'm not going to say it's
27 the same language, so let me put it this way. It's the concept
28 that you will have been familiar with, as having been part of

1 the section 58 ---

2 **MR. JOHN OSSOWSKI:** That's correct.

3 **MR. GORDON CAMERON:** --- explanation; correct?

4 Thank you.

5 And so I'm going to circle around to this later,
6 but can you tell me, do you have any knowledge as to why your
7 BLUF report, which throughout all of the protests had been
8 describing the risk to your front-line personnel and the
9 guidance for your management, why it changed from a description
10 of the threat being low to your officers and infrastructure to
11 the addition of this point about "operational impact may result
12 in a threat to Canada's economic security and prosperity"?

13 **MR. JOHN OSSOWSKI:** So I can tell you at the time
14 that I didn't even pay attention to that new language in the
15 report. And after the fact, and this was brought to my
16 attention, and we looked into it, and what I understand is the
17 Acting Director General of the Border Operations Centre at that
18 point in time decided of their own volition, given all the
19 events that had happened up to that point in time, to put this
20 in. And I'm -- I want to be very clear that I'm satisfied that
21 they did that in no way trying to provide any tacit or implied
22 support for the *Emergencies Act*. I believe they just did this
23 on their own volition. And that's what I understand to be true.

24 **MR. GORDON CAMERON:** Fair enough. And thank you
25 for that. Let's look at another sequence of similar threat
26 assessment or situational reports.

27 Mr. Clerk, could you call up
28 SSM.NSC.CAN000000064?

1 Now just have a look at that Mr. Ossowski, and
2 perhaps as the Clerk scrolls down, you'll be able to just tell
3 us roughly speaking, what -- this is a very similar looking
4 report, although different in some respects. Can you describe
5 what type of report this is?

6 **MR. JOHN OSSOWSKI:** So this would have just been
7 something that sent to a very long email list that shows what
8 has transpired and whatever the current situational status is of
9 the various ports of entry.

10 **MR. GORDON CAMERON:** Okay. And again, scrolling
11 down just so Mr. Ossowski can see the report as it progresses,
12 but stopping there, please, Mr. Clerk.

13 Again, we have a BLUF, Bottom Line Up Front,
14 description under the same type of heading, "Intelligence
15 Landscape". And again, for this report, it says that at 8:30 in
16 the morning, on February 14th, and I'll quote:

17 "...the overall threat to CBSA officers and
18 infrastructure remains low."

19 And do you see that, Mr. Ossowski?

20 **MR. JOHN OSSOWSKI:** I do.

21 **MR. GORDON CAMERON:** And can you agree with me
22 again, so that we don't have to go through them all, and perhaps
23 subject to check if you do want to, that that had been the
24 report given in all of these reports throughout February?

25 **MR. JOHN OSSOWSKI:** Correct.

26 **MR. GORDON CAMERON:** And Mr. Clerk, if you could
27 next call up SSM.CAN.00006200?

28 And I think we'll see that, as you described it

1 earlier, a wide distribution email with similar situational
2 information.

3 And if you could just scroll through it, Mr.
4 Clerk? We're looking for page 4. Bottom of page 4.

5 Again, tables and statistics about activity at
6 the various border points. And then we get the "Intelligence
7 Landscape" "BLUF". And I'm sorry, you know what I forgot to do?
8 Was to get the date and time of this.

9 Mr. Clerk, could you go up to the top please?
10 Thanks.

11 So we are now the next day. So this is February
12 15th.

13 Thank you, Mr. Clerk. I just wanted to make sure
14 we understood this.

15 So this is the next day's report of the same
16 type. And when we look at the "Intelligence Landscape" Bottom
17 Line Up Front, we see the same word about -- sorry, same words
18 about the threat being low, but now there's some more words:

19 "...but caution should be exercised in light
20 of recent reporting surrounding IMVE
21 groups."

22 And do you know why that appeared on February
23 15th, the day after the invocation of the *Emergencies Act*?

24 **MR. JOHN OSSOWSKI:** Not specifically, no. But I
25 can say in general, when events like this happen, one of the
26 things that, as a national security -- part of the national
27 security apparatus is that you're always concerned that that
28 might tilt somebody from just being an online sort of person

1 thinking about this type thing, that actually moves to action
2 and does something.

3 And that actually happened later on, after this,
4 on February 17th. I can describe an event where something like
5 that potentially happened.

6 **MR. GORDON CAMERON:** And do you see that before
7 the sentence we were just talking about, IMVE groups, we have a
8 repeat of the observation that the protests at POEs have
9 significant operational impact that may result in a threat to
10 Canada's economic security and prosperity.

11 That one that we saw last time in the other
12 report; correct?

13 **MR. JOHN OSSOWSKI:** I see that, yes.

14 **MR. GORDON CAMERON:** Now your explanation, as I
15 understood it earlier, for the appearance at the end of the day
16 on February 14th in 1 type of report and then in the next day on
17 February 15th in the other type of report for the appearance of
18 these references, in the intelligence landscape description of
19 the threat to CBSA officers and infrastructure, this sudden
20 appearance of references to a threat to Canada's economic
21 security and prosperity as being not motivated, in your view, by
22 an effort on the part of the drafters of these reports to repeat
23 the government explanation for invoking the *Emergencies Act*,
24 you're confident of that?

25 **MR. JOHN OSSOWSKI:** I believe that to be true.

26 **MR. GORDON CAMERON:** And I think you'll agree
27 that a threat assessment is meant to be a guide to action and
28 policy, not to serve as a vehicle to rationalize it; correct?

1 **MR. JOHN OSSOWSKI:** Correct.

2 **MR. GORDON CAMERON:** And, in fact, if your
3 personnel get the idea that the content of these threat
4 assessments that they are getting are driven by an attempt to
5 repeat government talking points, it's going to dilute the
6 utility of those assessments to your personnel and to their
7 ability to protect Canadians?

8 **MR. JOHN OSSOWSKI:** I don't disagree with that.

9 **MR. GORDON CAMERON:** Okay. So it's important
10 that the explanation you gave, that is that it was more or less
11 a coincidence that this language appeared immediately after the
12 invocation of the *Emergencies Act*, that it was just a
13 coincidence and not an attempt to repeat the government's
14 talking points for the invocation of the Act?

15 **MR. JOHN OSSOWSKI:** I believe that to be true,
16 yes.

17 **MR. GORDON CAMERON:** Thank you. Another point
18 that chronologically, because we're at the end of the process
19 here, chronologically at the invocation of the Act, you
20 mentioned that the only -- you mentioned in answer to questions
21 by my colleague, Ms. Heine, that the only input that CBSA gave
22 to Cabinet when it was considering how provisions in the
23 *Emergencies Act* could assist CBSA's mandate was to observe that
24 you didn't currently have the authority to prohibit entry on the
25 grounds that people were heading to one of these protests and
26 that that would be useful to you in terms of the objectives that
27 Cabinet appeared to be trying to achieve. Do you remember that
28 evidence?

1 **MR. JOHN OSSOWSKI:** Yes.

2 **MR. GORDON CAMERON:** And if we can call up, Mr.
3 Clerk, SSM.NSC.CAN.00000405? This is IRG minutes for February
4 20th. Do you recall participating in IRG meetings, Mr. Ossowski?

5 **MR. JOHN OSSOWSKI:** I did, yes.

6 **MR. GORDON CAMERON:** And, Mr. Clerk, if we scroll
7 down to page 6 at the bottom of the page -- so just slow down a
8 little bit, Mr. Clerk, so we can get the context here. Can you
9 go up just a bit?

10 So this is the IRG reporting on progress and with
11 respect to actions that have taken place consequential on the
12 invocation of the *Emergencies Act*, and then we have some input
13 from CBSA at the very bottom. And, Mr. Ossowski, did you
14 provide that input to the IRG?

15 **MR. JOHN OSSOWSKI:** I believe so, yes.

16 **MR. GORDON CAMERON:** And did you participate in
17 person or virtually in this meeting?

18 **MR. JOHN OSSOWSKI:** It was all virtual.

19 **MR. GORDON CAMERON:** And for your virtual
20 participation, was this you speaking, or had you submitted a
21 report to this effect?

22 **MR. JOHN OSSOWSKI:** It was probably me reporting
23 this.

24 **MR. GORDON CAMERON:** And you would have been
25 briefed in advance, I suppose, for a -- even for the President
26 of CBSA, an appearance at the IRG is a significant event. You'd
27 have had your staff brief you on this input?

28 **MR. JOHN OSSOWSKI:** Yes. So February 19th, there

1 wasn't an end in Prescott where 2 people were turned back using
2 the *Emergency Management Regulations*.

3 **MR. GORDON CAMERON:** Sorry, can you just slow
4 down a little bit and repeat that?

5 **MR. JOHN OSSOWSKI:** So on February 19th, in
6 Prescott, at the Prescott port of entry, 2 individuals, 2
7 foreign nationals attempting to come into the country for the
8 purpose of participating in the protest, who were otherwise not
9 prohibited from entering, were turned back using the EMR powers,
10 and that's what that refers to.

11 **MR. GORDON CAMERON:** Right. And had you made any
12 other reports to the IRG about similar instances in which the
13 *Emergencies Act* powers had been used by CBSA?

14 **MR. JOHN OSSOWSKI:** That was the first time I
15 reported on that, I believe.

16 **MR. GORDON CAMERON:** And I think it was the last
17 time also?

18 **MR. JOHN OSSOWSKI:** Yes.

19 **MR. GORDON CAMERON:** Okay. And so as far as CBSA
20 is aware, the authority in the *Emergencies Act* that empowered
21 CBSA to deny entry to people was with respect to a couple who
22 were turned away on February 19th?

23 **MR. JOHN OSSOWSKI:** That's correct.

24 **MR. GORDON CAMERON:** And that's the totality of
25 it?

26 **MR. JOHN OSSOWSKI:** That's correct.

27 **MR. GORDON CAMERON:** Thank you, Mr. Commissioner.
28 Those are my only questions.

1 **COMMISSIONER ROULEAU:** Okay. Thank you. So I'd
2 like to first call on the Convoy Organizers to ---

3 --- CROSS-EXAMINATION BY MR. BRENDAN MILLER:

4 **MR. BRENDAN MILLER:** Good morning, sir.

5 **MR. JOHN OSSOWSKI:** Good morning.

6 **MR. BRENDAN MILLER:** For the record, Brendan
7 Miller. We've corresponded before on other files, as you might
8 recall. I'm Counsel for Freedom Corp., which is the
9 representatives of the protesters that were in Ottawa in January
10 and February. Nothing to do with the border, sir.

11 So I just wanted to get out some of the
12 information with respect to the information that you gather
13 internationally and that is given to the CBSA, if you don't
14 mind, so if you can turn your mind to that.

15 So Canada, of course, is a part of what they call
16 the Five Eyes. Can you just sort of give an explanation of that
17 for the folks at home?

18 **MR. JOHN OSSOWSKI:** The Five Eyes is Canada, the
19 United States, Australia, New Zealand and the United Kingdom,
20 and it's a term that's been used to -- the allied relationship
21 since World War II.

22 **MR. BRENDAN MILLER:** Right. And in the Five Eyes
23 group and everything, a lot of the information that is gathered
24 by the Five Eyes is provided to the CBSA for security purposes;
25 is that fair?

26 **MR. JOHN OSSOWSKI:** Yes.

27 **MR. BRENDAN MILLER:** Right. And so -- and, of
28 course, the Five Eyes, the United States, you get information

1 from the agencies in the United States about any sort of threats
2 that may exist both for Canada, but also for the United States,
3 and that's essentially put into the CBSA's information bank and
4 so that you have it with respect to people coming across the
5 border; is that fair?

6 **MR. JOHN OSSOWSKI:** If the information is
7 relevant to the border, yes.

8 **MR. BRENDAN MILLER:** Right. And it's fair to say
9 that throughout the protest and at least based on disclosure,
10 the agencies in the United States such as the FBI, et cetera,
11 they did not provide the CBSA or the Five Eyes any form of
12 information with respect to any threat to Canada; is that fair?

13 **MR. JOHN OSSOWSKI:** I wouldn't be aware of that
14 exactly. I think you'd probably better talk to those like
15 Communications Security Establishment and/or CSIS to ---

16 **MR. BRENDAN MILLER:** Right.

17 **MR. JOHN OSSOWSKI:** --- find that out.

18 **MR. BRENDAN MILLER:** Right. But nothing to --
19 was brought to your attention as the President of the CBSA with
20 respect to any sort of threat to Canada coming from the United
21 States during the protest; is that fair?

22 **MR. JOHN OSSOWSKI:** That's correct.

23 **MR. BRENDAN MILLER:** Right. And so of course you
24 never relayed such information to Cabinet or to any of the
25 political executive because you weren't given any?

26 **MR. JOHN OSSOWSKI:** I believe that to be true,
27 yes.

28 **MR. BRENDAN MILLER:** Right. And just to be

1 clear, and I think my friend has made this clear, at no time did
2 you advise Cabinet or provide information to Cabinet that there
3 existed a Section 2 *CSIS Act* threat under the *CSIS Act*; is that
4 fair?

5 **MR. JOHN OSSOWSKI:** It wouldn't have been my
6 purview to refer to a *CSIS Act* threat.

7 **MR. BRENDAN MILLER:** Right. And so is it within
8 -- and we keep hearing that. We haven't had CSIS testify yet.
9 All of the law enforcement agencies that have testified to date
10 have said that that purview was solely up to CSIS. Is that your
11 understanding of how it works?

12 **MR. JOHN OSSOWSKI:** That's correct.

13 **MR. BRENDAN MILLER:** Right. So and if CSIS is
14 the only agency providing that information and CSIS says there's
15 no Section 2 *Security Act* threat, is it fair to say that Cabinet
16 would have been never advised of any Section 2 *CSIS Act* threat?

17 **MR. JOHN OSSOWSKI:** You'd have to talk to the
18 Director of CSIS about that.

19 **MR. BRENDAN MILLER:** When you were present, when
20 you were dealing with the IRG, is it fair to say that no law
21 enforcement agency, no intelligence agency within Canada advised
22 the government that there was a Section 2 *CSIS Act* threat?

23 **MR. JOHN OSSOWSKI:** Again, you'd have to talk to
24 the Director of CSIS about that.

25 **MR. BRENDAN MILLER:** Right. And during your
26 dealings with the political executive, essentially, they have
27 been stating in public that law enforcement agencies advised
28 them that the threshold for invoking the Act was met, all right?

1 What law enforcement agency advised them of that, to your
2 knowledge?

3 **MR. JOHN OSSOWSKI:** I'm not aware of who may have
4 provided that advice.

5 **MR. BRANDON MILLER:** Right, and neither are we.
6 Thank you.

7 **COMMISSIONER ROULEAU:** Okay, next I'd like to
8 call on the City of Windsor.

9 **--- CROSS-EXAMINATION BY MS. JENNIFER KING:**

10 **MS. JENNIFER KING:** Good morning, Mr. Ossowski.
11 Am I pronouncing your name correctly?

12 **MR. JOHN OSSOWSKI:** Yes.

13 **MS. JENNIFER KING:** Okay. My name is Jennifer
14 King. I'm legal counsel to the City of Windsor. The Ambassador
15 Bridge proper and the structures housing the CBSA around the
16 bridge are privately owned by the Canadian subsidiary of the
17 Detroit International Bridge Company; correct?

18 **MR. JOHN OSSOWSKI:** That's correct.

19 **MS. JENNIFER KING:** And the Canadian subsidiary
20 is the Canadian Transit Company; correct?

21 **MR. JOHN OSSOWSKI:** I believe so, yes.

22 **MS. JENNIFER KING:** Does the Canadian Transit
23 Company own the land around the bridge infrastructure and the
24 structures housing the CBSA?

25 **MR. JOHN OSSOWSKI:** I believe so, and it's
26 provided to us under Section 6 of the *Customs Act* ---

27 **MS. JENNIFER KING:** Okay.

28 **MR. JOHN OSSOWSKI:** --- for us to use that

1 facility.

2 **MS. JENNIFER KING:** Are there any other
3 international border crossings managed by the CBSA that are
4 owned and operated by a private corporation?

5 **MR. JOHN OSSOWSKI:** Several. Yes, there's
6 several, what we call, Section 6 operators that provide us the
7 facilities in order for them to provide that availability for
8 travellers and commercial vehicles to cross. So the Peace
9 Bridge, for example, is another example of that.

10 **MS. JENNIFER KING:** Okay. I take it, Mr.
11 Ossowski, that you are familiar with Windsor and the location of
12 the Ambassador Bridge?

13 **MR. JOHN OSSOWSKI:** I am.

14 **MS. JENNIFER KING:** The Ambassador Bridge sits at
15 one end of a municipal roadway, Huron Church Road; correct?

16 **MR. JOHN OSSOWSKI:** That's correct.

17 **MS. JENNIFER KING:** And that road about three
18 kilometres or so from the provincial highway?

19 **MR. JOHN OSSOWSKI:** That's correct.

20 **MS. JENNIFER KING:** So truck drivers have to
21 contend, Mayor Dilkens testified, six or seven local
22 intersections with traffic as they move along Huron Church Road
23 to and from the bridge?

24 **MR. JOHN OSSOWSKI:** That's correct.

25 **MS. JENNIFER KING:** Is this unique, in
26 particular, with respect to points of entry geared towards
27 commercial conveyances?

28 **MR. JOHN OSSOWSKI:** I wouldn't say it's unique

1 but I would say that there's -- every port of entry is different
2 in terms of the infrastructure leading to and from them, but
3 that is a different situation, for sure.

4 **MS. JENNIFER KING:** Okay. And the road is
5 surrounded by residential areas on both sides, educational
6 institutions, and businesses?

7 **MR. JOHN OSSOWSKI:** Yes.

8 **MS. JENNIFER KING:** The University of Windsor is
9 right beside the bridge and the CBSA facilities; correct?

10 **MR. JOHN OSSOWSKI:** I believe so, yes.

11 **MS. JENNIFER KING:** And you'll agree that Huron
12 Church bisects the city, so serving as an assess point between
13 the east and west sides of Windsor?

14 **MR. JOHN OSSOWSKI:** Yes.

15 **MS. JENNIFER KING:** And are you aware that the
16 route under the bridge along Huron Church is an important route
17 connecting West Windsor to downtown?

18 **MR. JOHN OSSOWSKI:** I'm familiar with that
19 particular route.

20 **MS. JENNIFER KING:** Okay. So the thousands of
21 trucks that cross the border every day share Huron Church Road
22 with local Windsor residents?

23 **MR. JOHN OSSOWSKI:** Yes.

24 **MS. JENNIFER KING:** Mayor Dilkens of Windsor
25 testified last week in response to a question from Commission
26 counsel who asked whether or not there was any discussion about
27 trying to prevent the blockade, and Mayor Dilkens testified that
28 because of the distance between the Ambassador Bridge and the

1 highway, and the number of businesses, homes, hotels, and
2 schools that require direct access to Huron Church Road, he said
3 that it would be, for all intents and purposes, practically
4 impossible to guarantee with any certainty that you could
5 provide a route for trucks without having huge disruption to the
6 community. Would you agree with Mayor Dilkens?

7 **MR. JOHN OSSOWSKI:** I agree. And in fact, there
8 was a fair bit of activity after the bridge reopened to put
9 Jersey barriers up there to make sure that other protests didn't
10 manifest along those intersections.

11 **MS. JENNIFER KING:** Okay. Well, if I can just
12 ask -- I wanted to ask you few questions about that. If Mr.
13 Clerk could please pull up SSM.NSC.CAN00000340_REL.0001. Mr.
14 Ossowski, I'm not sure if we've discussed this document yet
15 today. I'm not sure if I missed that. Have you been asked any
16 questions about this document yet this morning?

17 **MR. JOHN OSSOWSKI:** I don't believe so.

18 **MS. JENNIFER KING:** Okay. Can you tell us what
19 this is?

20 **MR. JOHN OSSOWSKI:** So this is briefing material
21 that would have been prepared for me to participate in a
22 meeting. I'm not sure which one.

23 **MS. JENNIFER KING:** Okay. So these are the
24 February 16th date. It would have been around February 16th and
25 certainly after the invocation of the *Emergencies Act*?

26 **MR. JOHN OSSOWSKI:** Yeah.

27 **MS. JENNIFER KING:** Okay. If you could just go
28 to the last bullet on the first page, please. And you'll see

1 here that the last bullet discusses -- or states that:

2 "Since the reopening of the bridge, we
3 have not seen any service disruptions
4 or border wait time, which is good
5 news. Law enforcement partners are
6 maintaining a strong presence in the
7 area with police erecting concrete
8 barriers along the length of Huron
9 Church between the Ambassador Bridge
10 and EC Row." (As read).

11 And so that was what you were referring to?

12 **MR. JOHN OSSOWSKI:** Yes.

13 **MS. JENNIFER KING:** All right. If you could
14 please scroll to page 3, Mr. Clerk, and the heading "Temporary
15 POE and Trade Corridor Hardening". The second bullet, you'll
16 see that the CBSA:

17 "...identified 22 high-risk POEs that, if
18 impeded, would continue to exacerbate
19 the fragile international trade chain."

20 And the Ambassador Bridge was one of those 22
21 high-risk POEs?

22 **MR. JOHN OSSOWSKI:** Yes, for sure.

23 **MS. JENNIFER KING:** Now, the CBSA collaborated
24 with police agencies of jurisdiction and provincial and
25 municipal officials to ensure the integrity of these essential
26 transportation routes; correct?

27 **MR. JOHN OSSOWSKI:** Absolutely, although ---

28 **MS. JENNIFER KING:** And in Windsor ---

1 **MR. JOHN OSSOWSKI:** --- our responsibilities are
2 just the port of entry.

3 **MS. JENNIFER KING:** Just the port of entry.

4 **MR. JOHN OSSOWSKI:** Yeah.

5 **MS. JENNIFER KING:** So in Windsor, the police of
6 jurisdiction would be the Windsor Police?

7 **MR. JOHN OSSOWSKI:** That's correct.

8 **MS. JENNIFER KING:** And the municipal official
9 obviously would be the City of Windsor?

10 **MR. JOHN OSSOWSKI:** Yes.

11 **MS. JENNIFER KING:** Are you aware that this
12 temporary hardening had a significant impact on the community
13 around the bridge and Huron Church Road?

14 **MR. JOHN OSSOWSKI:** I'm sure it did.

15 **MS. JENNIFER KING:** Okay. I have a few questions
16 about -- just to clarify the impact of border blockades on other
17 border crossings. Mr. Clerk, you can take down that document.
18 So the CBSA Ambassador Bridge Operations is also responsible for
19 the Windsor Truck Ferry; right?

20 **MR. JOHN OSSOWSKI:** The ferry?

21 **MS. JENNIFER KING:** Yes.

22 **MR. JOHN OSSOWSKI:** I'm not aware of a ferry.

23 **MS. JENNIFER KING:** Okay. Well, then, perhaps I
24 won't ask you any questions about it. I'll note that the CBSA
25 produced an Ambassador Bridge profile. I won't bring in up if
26 you're not familiar with it but the profile, for the record, is
27 at PB.NSC.CAN00009539_REL. And that profile, Mr. Ossowski,
28 states that the CBSA Ambassador Bridge Operations is responsible

1 for the Windsor Truck Ferry, and I wanted to ask you whether or
2 not there was any impact on the truck ferry operations.

3 **MR. JOHN OSSOWSKI:** Yeah, unfortunately, I'm not
4 even aware -- I wasn't aware that there was a ferry aspect to
5 the Windsor-Detroit bridge.

6 **MS. JENNIFER KING:** Okay. You spoke this morning
7 about the impact of the Ambassador Bridge blockade and the Blue
8 Water Bridge and some of the other bridges. Did the slow rolls
9 and blockades of other border crossings like Blue Water impact
10 traffic at the Ambassador Bridge?

11 **MR. JOHN OSSOWSKI:** Absolutely. So I -- I mean I
12 think it's -- I can't overstate sort of how tied together these
13 -- all these events are, and that when one slows down, people --
14 we would send out a border alert or people would go to our app
15 to see where the border wait times are the shortest and they
16 would reroute themselves. And so if there was a disruption or a
17 planned disruption, then we would try and reallocate officers
18 and/or provide situational awareness to our American
19 counterparts to make sure that we could manage whatever flows
20 might materialize. So it was a very dynamic time for us.

21 **MS. JENNIFER KING:** I understand this morning you
22 stated that the Blue Water Bridge -- the blockade of the Blue
23 Water Bridge started around -- was it the 6th of February?

24 **MR. JOHN OSSOWSKI:** I believe so. I'd have to go
25 check my notes.

26 **MS. JENNIFER KING:** Okay.

27 **MR. JOHN OSSOWSKI:** Yeah.

28 **MS. JENNIFER KING:** And at that time, were there

1 slow rolls also at the Ambassador Bridge?

2 **MR. JOHN OSSOWSKI:** Again, I'd have to go back
3 and look at the reports, but yes.

4 **MS. JENNIFER KING:** Okay. But certainly, slow
5 rolls and blockades of any of the bridges in Southern Ontario
6 will impact the use of the neighbouring bridges?

7 **MR. JOHN OSSOWSKI:** Absolutely.

8 **MS. JENNIFER KING:** Okay. I have a few questions
9 just to clarify the CBSA's authorities at and near ports of
10 entry.

11 **MR. JOHN OSSOWSKI:** Sure.

12 **MS. JENNIFER KING:** This morning, you testified
13 that the CBSA has limited authority to arrest within the port of
14 entry. You're Institutional Report confirms that the CBSA does
15 have arrest authorities when conducting their duties at a port
16 of authority.

17 **MR. JOHN OSSOWSKI:** Yeah, so we have limited --
18 our authorities are limited, generally, the arrest authorities
19 under the Criminal Code for what happens to -- under the *Customs*
20 *Act*, sorry, and the *Immigration Refugee Protection Act*. So an
21 example might be if we would detain somebody that is suspected
22 of drinking and driving or drinking under the influence, then we
23 would call local law enforcement and then they would proceed
24 with whatever criminal charges of that. So we're circumscribed
25 through the *Customs Act* and the *Immigration and Refugee*
26 *Protections Act*.

27 **MS. JENNIFER KING:** CBSA officers, do they have
28 the authority to arrest under the *Criminal Code*?

1 **MR. JOHN OSSOWSKI:** Only with -- I'd have to
2 defer to the lawyers, but I believe that it's only with respect
3 to the *Customs Act* and the *Immigration and Refugee Protections*
4 *Act*.

5 **MS. JENNIFER KING:** Okay. So they don't have the
6 authority to enforce, for example, a breach of a court order
7 under the *Criminal Code*?

8 **MR. JOHN OSSOWSKI:** Not that I'm aware of, unless
9 they were under -- you know, they were listed as, you know, an
10 open warrant for their arrest, for example.

11 **MS. JENNIFER KING:** So if we could look at
12 SSM.NSC.CAN0000340_Rel.0001?

13 This is back to your briefing material.

14 And if you could go to page 5, please?

15 This seems to be an attachment to your speaking
16 notes, Mr. Ossowski, entitled "Emergencies Act - CBSA Actions".
17 Are you -- do you recognize this document?

18 **MR. JOHN OSSOWSKI:** No, but looks like it was one
19 ours, yes.

20 **MS. JENNIFER KING:** Okay. If you can just go to
21 page 6 in the second last bullet please, Mr. Clerk?

22 And you'll see here, it states:

23 "CBSA officers are not designated to
24 enforce the criminal arrest provisions of
25 the Emergencies Act and cannot directly
26 engage in enforcement operations at
27 prohibited public assemblies."

28 Do you see that?

1 **MR. JOHN OSSOWSKI:** Yes.

2 **MS. JENNIFER KING:** And that's your
3 understanding?

4 **MR. JOHN OSSOWSKI:** Yes, because CBSA officers
5 are not peace officers, so they wouldn't be able to enforce
6 those provisions under the Act.

7 **MS. JENNIFER KING:** Okay. And then the last
8 sentence states that:

9 "...CBSA officers are advised to immediately
10 contact their Regional Intelligence
11 Officer who may share information the
12 appropriate law enforcement agency in
13 accordance with disclosure requirements."

14 And I missed the first part of that sentence, but
15 it's in circumstances where an officer encounters an offence
16 under the EA regulations?

17 **MR. JOHN OSSOWSKI:** That's correct.

18 **MS. JENNIFER KING:** Okay. So if a prohibited
19 public assembly happened even within the port of entry, you
20 would still rely on the police of jurisdiction to enforce?

21 **MR. JOHN OSSOWSKI:** We've always worked with the
22 police of jurisdiction for matters that we don't have the
23 authorities to deal with ourselves.

24 **MS. JENNIFER KING:** Okay. And certainly outside
25 of the port of authority in Windsor, you relied on Windsor
26 Police Services to address the blockade because that blockade
27 happened at a municipal intersection; correct?

28 **MR. JOHN OSSOWSKI:** That's correct. Yes.

1 **MS. JENNIFER KING:** You embedded CBSA's District
2 Director in charge of Windsor, Mr. Joe McMahon, in command -- at
3 the Command Centre that WPS set up near the Ambassador Bridge;
4 right?

5 **MR. JOHN OSSOWSKI:** That's correct.

6 **MS. JENNIFER KING:** Were you aware that the
7 Command Centre was located in the City's Emergency Operation
8 Centre?

9 **MR. JOHN OSSOWSKI:** I wasn't aware of the exact
10 location, no.

11 **MS. JENNIFER KING:** Okay. Was it your
12 understanding that there was some disagreement between the
13 Province of Ontario and the Federal Government over which level
14 of government had the jurisdiction and authority to respond to
15 the blockade at the Ambassador Bridge?

16 **MR. JOHN OSSOWSKI:** Not in any great detail. I
17 was aware of the extent of our authorities, which are, you know,
18 limited to the port of entry itself.

19 **MS. JENNIFER KING:** Okay. If we could bring up
20 SSM.CAN00000374_Rel.0001?

21 This is an email that Nathalie Drouin sent to you
22 on February the 10th. Who is Nathalie Drouin?

23 **MR. JOHN OSSOWSKI:** She's the Deputy Clerk of the
24 Privy Council.

25 **MS. JENNIFER KING:** Okay. If you could scroll
26 all the way to the end of the email chain, Mr. Clerk? And
27 you'll see here the email from Nathalie Drouin to yourself and
28 some others.

1 **MR. JOHN OSSOWSKI:** Yes.

2 **MS. JENNIFER KING:** Okay. And so she's asking
3 whether or not we can:

4 "...declare the region of the Ambassador
5 bridge a trade corridor and then get
6 jurisdiction?"

7 Do you see that?

8 **MR. JOHN OSSOWSKI:** I see that, yes.

9 **MS. JENNIFER KING:** So if you can scroll up, Mr.
10 Clerk?

11 We'll see that, Mr. Ossowski, you sent this
12 question to Michael Keenan of Transport Canada?

13 **MR. JOHN OSSOWSKI:** That's correct.

14 **MS. JENNIFER KING:** And if you continue to scroll
15 up, we'll see his answer.

16 Do you recognize this email?

17 **MR. JOHN OSSOWSKI:** Yes.

18 **MS. JENNIFER KING:** Yes. And I won't go through
19 the entire response, but I will -- but this email references
20 that the Ontario Minister of Transportation was continuing to
21 suggest that the Federal Government had full authority to manage
22 international crossings. And Mr. Keenan responds that:

23 "...this purposefully confuses authorities
24 between governments."

25 Do you recall that?

26 **MR. JOHN OSSOWSKI:** I'm reading it as you're
27 telling me this. Yes.

28 **MS. JENNIFER KING:** Okay. And Mr. Keenan refers

1 to the federal authorities under the *Customs Act* and the
2 *International Bridges and Tunnels Act*, but concludes that these
3 Acts don't:

4 "...directly bring any authorities to bear
5 on the blockade..."

6 Right?

7 **MR. JOHN OSSOWSKI:** That's what it appears to be,
8 yeah.

9 **MS. JENNIFER KING:** Okay. And do you agree with
10 Michael Keenan's email?

11 **MR. JOHN OSSOWSKI:** I do.

12 **MS. JENNIFER KING:** All right. Thank you, Mr.
13 Clerk.

14 Mr. Ossowski, you understand that Windsor and
15 other municipalities were challenged in terms of their capacity
16 to respond to these protests, in terms of the availability of
17 local policing and other resources, such as in Windsor's case,
18 jersey barriers?

19 **MR. JOHN OSSOWSKI:** I do.

20 **MS. JENNIFER KING:** Would you agree that
21 bolstering local capacity and resources is necessary to mitigate
22 the risk of major impacts on the operation of the federal border
23 crossings in the future?

24 **MR. JOHN OSSOWSKI:** I think that would apply to
25 many ports of entry that saw disruptions like this, based on
26 their unique geography and/or access routes to and from the
27 ports of entry, yes.

28 **MS. JENNIFER KING:** Thank you. Would you agree

1 that the blockades revealed a mismatch between jurisdictional
2 authorities and responsibilities?

3 **MR. JOHN OSSOWSKI:** I think we saw that across
4 the entire country, and I think that, you know, from my
5 perspective of trying to run the border in a nationally
6 consistent manner, and seeing the variations in response across
7 the country, either how law enforcement chose to respond to it,
8 or what the particular infrastructure was, was problematic for
9 us.

10 **MS. JENNIFER KING:** Okay. Mr. Commissioner, I
11 know I'm at the end of my time. I just have a couple more
12 questions.

13 **COMMISSIONER ROULEAU:** You're actually over your
14 time, but please wrap up as quickly as possible.

15 **MS. JENNIFER KING:** Thank you.

16 Mr. Ossowski, Mayor Dilkens of Windsor, we've
17 heard that he wrote to the Ontario and Federal Governments in
18 March earlier this year and he stated that following the
19 blockades, the need for broader collaboration and support, and I
20 think in this case he meant of local authorities, from
21 Provincial and Federal Governments to bolster the safety and
22 security of our borders appears obvious. Do you agree with
23 Mayor Dilkens?

24 **MR. JOHN OSSOWSKI:** I agree.

25 **MS. JENNIFER KING:** Okay. And given the
26 particular jurisdictional issues surrounding international
27 bridges, like those in Windsor, and the evidence that you've
28 already given, would you agree that a specific plan should be

1 developed by all three levels of government for international
2 border crossings?

3 **MR. JOHN OSSOWSKI:** If I were to be so bold as to
4 offer a potential recommendation of the Commission is, is that I
5 think that that is something that should be done, and as well,
6 in terms of how police of jurisdiction choose to respond to
7 something like this should be exercised regularly so that this
8 type of thing doesn't, you know, take root and be so hard to
9 disentangle, as was the case in January and February.

10 **MS. JENNIFER KING:** Okay. And my final question,
11 Mr. Ossowski, and thank you, Mr. Commissioner, for this
12 indulgence, would you agree then that coordination across all
13 three levels of government, including the coordination of
14 responsibilities and responsibility for costs should be part of
15 that plan?

16 **MR. JOHN OSSOWSKI:** Well I can't speak to costs,
17 but I can certainly speak to coordination of responsibilities
18 would make it a lot easier, I think, for all parties to manage
19 these situations in the future.

20 **MS. JENNIFER KING:** Thank you. Those are my
21 questions.

22 **COMMISSIONER ROULEAU:** Okay. Thank you. And
23 next I'd like to call on the Government of Alberta.

24 **--- CROSS-EXAMINATION BY MS. STEPHANIE BOWES:**

25 **MS. STEPHANIE BOWES:** Good morning. For the
26 record, my name is Stephanie Bowes. I'm counsel for the
27 Government of Alberta.

28 I'll ask the Clerk to please pull up the

1 Institutional Report, DOJ.IR, and I believe it's 00000006. And
2 when that report is up, I'll ask to scroll down to page 35.

3 I just want to ask some questions about the
4 accommodations made during the Coutts border closure at
5 different ports of entry in Alberta. And I'm not going to run
6 through this chart, other than to note that there are days
7 during the course of the blockade where traffic was --
8 commercial traffic was travelling through the Coutts Port of
9 Entry, but there were also days when there were no traffic. In
10 particular, January 31st to February 2nd.

11 Do you understand that that was at a time when
12 Highway 4 was completely blockaded?

13 **MR. JOHN OSSOWSKI:** I believe so, yes.

14 **MS. STEPHANIE BOWES:** And then we see that again
15 on February 9th for reasons of a blockade?

16 **MR. JOHN OSSOWSKI:** That's correct.

17 **MS. STEPHANIE BOWES:** And then on February 13th
18 and 14th, that was due to the RCMP request for the closure of
19 the Coutts port of entry; correct?

20 **MR. JOHN OSSOWSKI:** The suspension, yes.

21 **MS. STEPHANIE BOWES:** The suspension, thank you.
22 And then if we go to page 36 in the institutional report, we can
23 see the charts for the Del Bonita and Caraway [sic] ports of
24 entry, and those charts will track some of the changes in
25 traffic through those ports. And there were accommodations made
26 to try to accommodate some of that commercial traffic that would
27 normally travel through Coutts to these two ports of entry;
28 correct?

1 **MR. JOHN OSSOWSKI:** Yes.

2 **MS. STEPHANIE BOWES:** For example, Del Bonita,
3 which was normally closed on Saturdays and Sundays, was opened
4 on February 12th and 13th?

5 **MR. JOHN OSSOWSKI:** That's correct.

6 **MS. STEPHANIE BOWES:** And hours were extended at
7 both Del Bonita and Caraway [sic].

8 **MR. JOHN OSSOWSKI:** Carway, yes.

9 **MS. STEPHANIE BOWES:** Carway? Thank you. I also
10 understand that the U.S. Customs and Border Protection Services
11 permitted boxed meat to go through other ports of entry and then
12 reroute to Sweetgrass, Montana for USDA inspection; is that
13 correct?

14 **MR. JOHN OSSOWSKI:** I believe that to be true,
15 yes.

16 **MS. STEPHANIE BOWES:** And Sweetgrass, Montana is
17 basically on the other -- on the Montana side of the Coutts port
18 of entry; is that right?

19 **MR. JOHN OSSOWSKI:** Yes.

20 **MS. STEPHANIE BOWES:** And the USCBP also agreed
21 to facilitate the clearance of livestock at any port into the
22 United States with the carrier then diverting to a location that
23 had USDA and veterinary services?

24 **MR. JOHN OSSOWSKI:** Yes.

25 **MS. STEPHANIE BOWES:** And the CBSA allowed
26 livestock shipments coming into Canada to be inspected at
27 Sweetgrass and then divert to another port of entry while
28 services were suspended at Coutts; is that correct?

1 **MR. JOHN OSSOWSKI:** Correct.

2 **MS. STEPHANIE BOWES:** Now, did the Coutts port of
3 entry experience any other protest or blockade disruptions after
4 February 15th?

5 **MR. JOHN OSSOWSKI:** I think there was some
6 reference in my materials, and if I may, I would just refer to
7 my -- the end of my institutional report that shows the
8 day-to-day. So I think on February 21st, I reported in the
9 institutional report on page 58:

10 "The RCMP was monitoring assembly of
11 protesters at Milk River." (As read)

12 So yeah, I recall these more sort of skirmishes
13 that were happening after the arrests were made when essentially
14 the blockade came down, but there was still activity happening.

15 **MS. STEPHANIE BOWES:** Activity, but did it affect
16 services at the Coutts port of entry?

17 **MR. JOHN OSSOWSKI:** No.

18 **MS. STEPHANIE BOWES:** Okay. And you were asked a
19 question by Commission Counsel about a reference attributed to
20 you, wherein you referred to the *Emergencies Act*, and I believe
21 your response was that you think you were referring to
22 provincial powers under emergency legislation to compel somebody
23 to render services, for example, towing services. Is that
24 correct?

25 **MR. JOHN OSSOWSKI:** You're referring to the
26 report from the FPT meeting?

27 **MS. STEPHANIE BOWES:** Yes.

28 **MR. JOHN OSSOWSKI:** Yes.

1 **MS. STEPHANIE BOWES:** And you were specifically
2 thinking about Alberta and powers that it may have under its
3 legislation?

4 **MR. JOHN OSSOWSKI:** I think I was just making a
5 general reference to what provincial powers could be used to
6 compel tow trucks.

7 **MS. STEPHANIE BOWES:** And you were ---

8 **MR. JOHN OSSOWSKI:** And I found out after the fac
9 that Alberta, I think, has that power under its emergency
10 powers.

11 **MS. STEPHANIE BOWES:** Right. And I just want to
12 clarify one thing because Commission Counsel put to you that it
13 was under the *Critical Infrastructure Defence Act*. You said no,
14 you believed it was under emergency legislation; correct?

15 **MR. JOHN OSSOWSKI:** That's what I believe to be
16 true, yes.

17 **MS. STEPHANIE BOWES:** And if I told you that the
18 legislation you're referring to is the *Emergency Management Act*,
19 would that accord with your memory of what you were likely
20 referring to?

21 **MR. JOHN OSSOWSKI:** I believe so, yes.

22 **MS. STEPHANIE BOWES:** Okay. Thank you, those are
23 all my questions.

24 **COMMISSIONER ROULEAU:** Okay, thank you.

25 Next, calling on the Ontario Provincial Police.

26 **MS. JINAN KUBURSI:** Good morning, Commissioner.
27 Can you hear me?

28 **COMMISSIONER ROULEAU:** Yes.

1 **MS. JINAN KUBURSI:** Unfortunately, it appears my
2 video is not working. I do have it on. My apologies. If
3 you'll allow it, I'd like to proceed. I only have a few brief
4 questions for Mr. Ossowski.

5 **COMMISSIONER ROULEAU:** Yeah, go ahead.

6 **MS. JINAN KUBURSI:** Okay. Thank you very much.

7 **--- CROSS-EXAMINATION BY MS. JINAN KUBURSI:**

8 **MS. JINAN KUBURSI:** Mr. Ossowski, good morning.
9 My name's Jinan Kubursi, and I'm counsel for the Ontario
10 Provincial Police, and I have just a few brief questions for you
11 on the topic of intelligence and information-sharing among
12 agencies.

13 So I understand from the witness summary you were
14 also interviewed with your colleague, Mr. Harris, who was the
15 Vice-President of Intelligence and Enforcement at the CBSA
16 during the convoy. Is that correct?

17 **MR. JOHN OSSOWSKI:** Yes, it is.

18 **MS. JINAN KUBURSI:** Scott Harris, I should say
19 his full name.

20 **MR. JOHN OSSOWSKI:** Yeah.

21 **MS. JINAN KUBURSI:** And so I expect that you rely
22 on Mr. Harris to report up to you with respect to intelligence;
23 is that fair to say?

24 **MR. JOHN OSSOWSKI:** Anything relevant, yes.

25 **MS. JINAN KUBURSI:** Right. And -- so of course,
26 I appreciate that you may not be aware of the details with
27 respect to processes and sources of information within the
28 Intelligence and Enforcement Branch of the CBSA, but I'd like to

1 ask, were you aware that the OPP Intelligence Bureau was in fact
2 actively sharing Freedom Convoy related intelligence throughout
3 the period of the convoy in January and February of 2022?

4 **MR. JOHN OSSOWSKI:** I would say I generally
5 remember that happening, yes.

6 **MS. JINAN KUBURSI:** Okay. So given that you
7 generally remember that happening...

8 If we could just, Clerk, perhaps pull up the
9 witness summary. It's WTS46.

10 We were referring to it earlier in your evidence
11 today.

12 Now, if we go to page 3, I'd just like to look at
13 that second paragraph.

14 And if we go a little bit into the second
15 paragraph, it says:

16 "To Mr. Harris' knowledge, the CBSA did
17 not provide or receive unique
18 intelligence disclosures from or to law
19 enforcement partners prior to the
20 arrival of the convoy in Ottawa..."

21 Mr. Ossowski, from what you just said, it seems
22 to me that you did have a general awareness that the OPP was
23 providing some intelligence information to the CBSA, or you have
24 become aware of that at some point.

25 **MR. JOHN OSSOWSKI:** Well, I think that, as
26 Mr. Harris states in the notes here, like maybe we wouldn't have
27 -- I was aware that OPP was producing intelligence from other
28 tables that I was sitting at, but generally, in a situation like

1 this, what we would be getting from law enforcement partners was
2 situational awareness so that we could actually figure out how
3 we were going to make any adjustments at the border in terms of
4 the management of the border. So I wasn't aware, and if
5 Mr. Harris said that we didn't receive any direct intelligence
6 from the OPP, then I believe that to be true.

7 **MS. JINAN KUBURSI:** Okay. And you know, it's not
8 that I'm questioning Mr. Harris' knowledge as set out in this
9 witness summary, but just from the perspective of the OPP, just
10 want to ensure that the record is accurate with respect to
11 information-sharing in the Intelligence realm.

12 And so for that reason, I'd like us to please
13 pull up, Clerk, OPP4577 if you could.

14 And Mr. Ossowski, this is a distribution list
15 from the OPP's Intelligence Bureau that we'll take a look at
16 together here. And also, for the record, this distribution list
17 is referred to at the OPP's institutional report at page 23.

18 But Mr. Ossowski, we can see here that...

19 If we just scroll up to the top.

20 This says Original Partner Agencies. It's dated
21 22nd of February 2020. And if we just scroll down to page 3.

22 And I appreciate, Mr. Ossowski, I expect you have
23 not laid eyes on this document before.

24 **MR. JOHN OSSOWSKI:** No.

25 **MS. JINAN KUBURSI:** Is that correct? Yes. Okay.

26 But if we take a look at page 3, and scroll down.
27 This is a bit of a challenge, but there.

28 We can see at the bottom there, there's Melanie

1 Rose at CBSA. Can you confirm that you see that entry ---

2 **MR. JOHN OSSOWSKI:** Yeah.

3 **MS. JINAN KUBURSI:** --- with that CBSA email
4 address.

5 **MR. JOHN OSSOWSKI:** Yeah.

6 **MS. JINAN KUBURSI:** Do you know who Melanie Rose
7 is?

8 **MR. JOHN OSSOWSKI:** No, I don't.

9 **MS. JINAN KUBURSI:** No? And if we scroll down a
10 little further to page 5, we'll go about halfway down, again,
11 just seeing -- again, we see a CBSA address. Clerk, I think you
12 can continue.

13 On that page, we will see some additional CBSA
14 addresses. Joshua Newby, for example. Mr. Ossowski, so you
15 confirm that you can see that this distribution list includes
16 some CBSA staff?

17 **MR. JOHN OSSOWSKI:** M'hm.

18 **MS. JINAN KUBURSI:** Okay.

19 **MR. JOHN OSSOWSKI:** Yes.

20 **MS. JINAN KUBURSI:** And are you familiar with
21 Joshua Newby, just to assist us in understanding his role within
22 the organization?

23 **MR. JOHN OSSOWSKI:** No, I'm not.

24 **MS. JINAN KUBURSI:** Okay.

25 **COMMISSIONER ROULEAU:** You're now out of time, so
26 I'm -- you're going to have to wrap up.

27 **MS. JINAN KUBURSI:** Okay. One last quick point.

28 Thank you very much, Commissioner.

1 Clerk, if you could pull up PB.CAN.00001535,
2 please? I'd like to take a look at that document. Okay. If
3 you could perhaps reduce it? I believe towards the middle of
4 the document there should be an indication of the role of Josh
5 Newby in this mandate protest incident command structure. Mr.
6 Ossowski, do you see that?

7 **MR. JOHN OSSOWSKI:** Yeah.

8 **MS. JINAN KUBURSI:** Okay. And so according to
9 this chart, it appears that Josh Newby was executive director in
10 dealing with the mandate protest. Is that what we see here?

11 **MR. JOHN OSSOWSKI:** That's what it appears to be.

12 **MS. JINAN KUBURSI:** Okay. Okay. Well, thank you
13 very much. Those are all my questions.

14 Thank you, Commissioner, for that additional
15 time. Thank you. Those are all my questions.

16 **COMMISSIONER ROULEAU:** Okay. Next is Democracy
17 Fund, JCCF.

18 **--- CROSS-EXAMINATION BY MR. HATIM KHEIR:**

19 **MR. HATIM KHEIR:** Good morning. I'm Hatim Kheir,
20 Counsel for the Justice Centre for Constitutional Freedoms.

21 The first topic I wanted to ask you about is the
22 power for border agents to turn people away if they are coming
23 to participate in a protest under the *Emergencies Act*.

24 **MR. JOHN OSSOWSKI:** M'hm.

25 **MR. HATIM KHEIR:** So you testified that that was
26 one of the powers that was granted to border agents by the
27 *Emergency Regulations*?

28 **MR. JOHN OSSOWSKI:** Yes.

1 **MR. HATIM KHEIR:** And you were also asked about
2 the ability of border agents to turn away people who are coming
3 for a known unlawful purpose and they could do that if they knew
4 about that; correct?

5 **MR. JOHN OSSOWSKI:** Before or after the ---

6 **MR. HATIM KHEIR:** Sorry, before the Emergency
7 Measures were ---

8 **MR. JOHN OSSOWSKI:** Well, it wasn't an unlawful
9 protest at that point in time, before the *Emergencies Act*;
10 right?

11 **MR. HATIM KHEIR:** Right, but you were asked if
12 you knew someone was -- if your agents, sorry, were -- knew that
13 an individual was coming to enter the country in order to engage
14 in unlawful activity, your agents could turn that person away;
15 correct?

16 **MR. JOHN OSSOWSKI:** If it was not for a lawful
17 purpose, yes, they can turn somebody around.

18 **MR. HATIM KHEIR:** Right. And you indicated that
19 one of the problems with that is that your agents would actually
20 have to know that a person is coming for that purpose, which
21 could be difficult; right?

22 **MR. JOHN OSSOWSKI:** Yes.

23 **MR. HATIM KHEIR:** And under the *Emergency*
24 *Regulations*, your agents could turn someone away if they were
25 known to be coming to engage in a certain kind of prohibited
26 public gathering that might breach the peace through ---

27 **MR. JOHN OSSOWSKI:** Known or suspected.

28 **MR. HATIM KHEIR:** Right. So but your agents

1 would then face the same problem in terms of having to identify
2 a person's intentions; correct?

3 **MR. JOHN OSSOWSKI:** Well, a standard question for
4 a foreign national is what's the purpose of your visit to the
5 country; right? And so that would just lead you down a line of
6 questioning that the officer then would decide whether or not
7 the person was prohibited from entering or not.

8 **MR. HATIM KHEIR:** Right. And the same thing
9 would happen if a person's purpose for coming was an unlawful
10 reason; correct?

11 **MR. JOHN OSSOWSKI:** Yes.

12 **MR. HATIM KHEIR:** Okay. Thank you. And the
13 other topic I wanted to ask you, so you described how the CBSA
14 was able to help facilitate obtaining tow trucks by waiving the
15 requirement for a work permit to enter the country; correct?

16 **MR. JOHN OSSOWSKI:** A little bit broader than
17 that, but essentially, yeah. So basically, with the agreement
18 with the United States for emergency vehicles where we got many
19 communities that share access to these vehicles to help each
20 other out is we would facilitate the entry of those vehicles to
21 participate in whatever the event was, notwithstanding the fact
22 that they didn't have a work permit.

23 **MR. HATIM KHEIR:** Okay. So under the normal
24 circumstances, there's some sort of a regulation, I assume, that
25 requires them to have a work permit?

26 **MR. JOHN OSSOWSKI:** Well, under the *Immigration*
27 *and Refugee Protection Act*, you have to have a -- one of the
28 requirements for entry would be a valid work permit.

1 **MR. HATIM KHEIR:** Right. So and just trying to
2 understand how that actual process worked, would it fall under
3 the discretion that border agents have when they're enforcing
4 these laws to just not ---

5 **MR. JOHN OSSOWSKI:** I believe it's just a ---

6 **MR. HATIM KHEIR:** --- apply that ---

7 **MR. JOHN OSSOWSKI:** --- memorandum of
8 understanding that we have with our American counterparts, to
9 facilitate emergency vehicles for the purpose of participating
10 in resolving whatever the issue is.

11 **MR. HATIM KHEIR:** Right. But would I be correct
12 in thinking that that would operate as an exercise of the border
13 agent's discretion to simply not apply what would normally be
14 the requirement for entry into the country?

15 **MR. JOHN OSSOWSKI:** Well, I don't know that the
16 individual officer would do that. I think that would probably
17 take -- it would go a little bit further up the command chain in
18 terms of saying, yes, this is where we're going to invoke this
19 memorandum, for lack of better words, to facilitate the entry of
20 the emergency vehicles.

21 **MR. HATIM KHEIR:** Okay. But what I'm trying to
22 get at is the operation of law that's happening here. It's a
23 decision not to apply a law that normally exists ---

24 **MR. JOHN OSSOWSKI:** Yes.

25 **MR. HATIM KHEIR:** --- right?

26 **MR. JOHN OSSOWSKI:** So, yes, officers had
27 discretion.

28 **MR. HATIM KHEIR:** Right. Okay. Now we heard

1 yesterday from Deputy Commissioner Curtis Zablocki that one of
2 the things that the RCMP tried to do in Coutts was to obtain tow
3 trucks from the United States but some of them couldn't actually
4 come and help because they were unvaccinated. Did the CBSA
5 waive any of the vaccine requirements for tow truck drivers to
6 come and help?

7 **MR. JOHN OSSOWSKI:** I'm not aware of that.

8 **MR. HATIM KHEIR:** Okay. Those are all my
9 questions. Thank you for answering them.

10 **COMMISSIONER ROULEAU:** Thank you. I don't know
11 if we should take the break now and -- because there's not much
12 time left for this witness, but I'm in your hands.

13 **MS. ANDREA GONSALVES:** Mr. Commissioner, if it's
14 all the same to you, I would probably benefit from the break to
15 just tighten up my examination a little bit, but I could also
16 go, if that's your preference.

17 **COMMISSIONER ROULEAU:** Okay. Well, if you're
18 okay, we'll take the break now and ---

19 **MR. JOHN OSSOWSKI:** That's fine.

20 **COMMISSIONER ROULEAU:** --- come back in 15
21 minutes.

22 **MR. JOHN OSSOWSKI:** Okay. Perfect. Thank you.

23 **THE REGISTRAR:** The Commission is in recess for
24 15 minutes. La commission est levée pour 15 minutes.

25 --- Upon recessing at 11:36 a.m.

26 --- Upon resuming at 11:55 a.m.

27 **THE REGISTRAR:** Order. A l'ordre. The
28 Commission has reconvened. La Commission reprend.

1 --- MR. JOHN OSSOWSKI, Resumed:

2 --- CROSS-EXAMINATION BY MS. ANDREA GONSALVES:

3 **MS. ANDREA GONSALVES:** Thank you, Commissioner.

4 For the record, I am Andrea Gonsalves, counsel
5 for the Government of Canada.

6 Mr. Ossowski, you mentioned in your testimony
7 that the impacts of the blockades in the protest activity were
8 coast to coast and the situation was escalating and
9 unpredictable. Do you recall that evidence?

10 **MR. JOHN OSSOWSKI:** I do.

11 **MS. ANDREA GONSALVES:** And you testified that
12 there were official service disruptions at three ports of entry,
13 Emerson, Ambassador Bridge, and Pacific Highway?

14 **MR. JOHN OSSOWSKI:** Correct, where we actually
15 put out a border alert ---

16 **MS. ANDREA GONSALVES:** Right.

17 **MR. JOHN OSSOWSKI:** --- I think was the context
18 of that.

19 **MS. ANDREA GONSALVES:** And at the Pacific
20 Highway, it was in fact, two times there were border alerts
21 issued, right?

22 **MR. JOHN OSSOWSKI:** That's correct.

23 **MS. ANDREA GONSALVES:** And the second one was
24 after the Government of Canada had invoked the *Emergencies Act*
25 on February 19th, right?

26 **MR. JOHN OSSOWSKI:** Correct.

27 **MS. ANDREA GONSALVES:** And there was then the
28 service suspension at the Coutts port of entry. But is it

1 accurate to say that the impacts were experienced beyond just
2 these service disruptions and the service suspension and at
3 other ports of entry?

4 **MR. JOHN OSSOWSKI:** Absolutely. And in fact, if
5 you look at the institutional report, I believe 22 different
6 ports of entry had varying degrees of disruption throughout the
7 protests.

8 **MS. ANDREA GONSALVES:** You mentioned in your
9 evidence in response to Commission counsel's questions the
10 delays, the added travel distances and times of having to divert
11 to other ports of entry, that this created problems in
12 particular for just in time supply chain, manufacturers, as well
13 as for perishables or livestock.

14 **MR. JOHN OSSOWSKI:** Correct.

15 **MS. ANDREA GONSALVES:** We have heard some
16 evidence that at some ports of entry, there were alternate
17 roads, in some cases, gravel roads. Were those a viable option
18 for commercial traffic looking to cross the border?

19 **MR. JOHN OSSOWSKI:** Not always, because there
20 we're load limits, so an example that pops to mind is at Coutts,
21 there was a side road that the BSOs were able to use to drive to
22 and from the port of entry while it was functioning, but that
23 would not have been appropriate for a large commercial vehicle
24 to go on.

25 **MS. ANDREA GONSALVES:** Let's go to
26 SSM.MSC.CAN00000050. This is the CBSA sitrep as of February
27 12th, so that's the Saturday of the third weekend, 3:00 p.m.
28 Eastern Time.

1 And if we just scroll down, we see reports of
2 activity at Cornwall.

3 Mr. Ossowski, I understand that the port of entry
4 at Cornwall is particularly complex jurisdictionally; is that
5 correct?

6 **MR. JOHN OSSOWSKI:** It is. Its placement is not
7 at the first point in landing in Canada which makes it very
8 inconvenient for the members of the Mohawk Akwesasne Band that
9 live on the island.

10 **MS. ANDREA GONSALVES:** And so the members of that
11 First Nation live on an island that is between the Canadian side
12 where the port of entry is located, and the US side; is that
13 accurate?

14 **MR. JOHN OSSOWSKI:** Yeah. So the actual
15 international boundary is to the south of the island, but port
16 of the entry is on the mainland to the north of the island.

17 **MS. ANDREA GONSALVES:** And for members of that
18 First Nation, then, if they want to access any services on the
19 mainland on the Canadian side, they have to pass through the
20 port of entry.

21 **MR. JOHN OSSOWSKI:** That's correct.

22 **MS. ANDREA GONSALVES:** And so a disruption to
23 that port of entry would be particularly problematic for that
24 community.

25 **MR. JOHN OSSOWSKI:** Very much so.

26 **MS. ANDREA GONSALVES:** Okay. And then also on
27 February 12th there are incidents being reported at Lansdowne,
28 which I understand is in the Thousand Islands area?

1 **MR. JOHN OSSOWSKI:** Yes.

2 **MS. ANDREA GONSALVES:** Ambassador Bridge, Peace
3 Bridge -- let's scroll down -- Sarnia, Blue Water, Emerson,
4 Coutts, Pacific Highway. And then there's a table there of
5 upcoming protest events that are ongoing, confirmed, and
6 unconfirmed.

7 **MR. JOHN OSSOWSKI:** Yes.

8 **MS. ANDREA GONSALVES:** Mr. Ossowski, does that
9 help illustrate the coast-to-coast dynamic that you testified
10 about earlier?

11 **MR. JOHN OSSOWSKI:** I believe so.

12 **MS. ANDREA GONSALVES:** And did the protests and
13 slow rolls and blockades near ports of entry stop on or before
14 February 14th, or did they continue after?

15 **MR. JOHN OSSOWSKI:** Several disruptive activities
16 continued well after the invocation of the Act.

17 **MS. ANDREA GONSALVES:** And we can look to the
18 details of that in the chronology in the CBSA Institutional
19 Report?

20 **MR. JOHN OSSOWSKI:** Yes.

21 **MS. ANDREA GONSALVES:** You mentioned port
22 hardening measures that were imposed at the time. Are those
23 still in effect?

24 **MR. JOHN OSSOWSKI:** I believe the cameras stayed
25 up, yes, that I referred to earlier, the CCTV cameras.

26 **MS. ANDREA GONSALVES:** Now, in response to some
27 questions earlier, I understood you agreed with the statement
28 that prior to the invocation of the *Emergencies Act* and the

1 EMRs, CBSA could use the *Immigration and Refugee Protection Act*
2 to stop a foreign national from entering Canada to join an
3 unlawful protest. Do you recall those exchanges?

4 **MR. JOHN OSSOWSKI:** I do.

5 **MS. ANDREA GONSALVES:** And I just want to be
6 clear; my understanding is that under the IRPA, there must be an
7 assessment made that an individual poses a danger to Canada, or
8 will engage in violent crime when they cross over into Canada.
9 Am I correct on that?

10 **MR. JOHN OSSOWSKI:** I believe so, yes.

11 **MS. ANDREA GONSALVES:** And where that assessment
12 is made, it's not the situation that the CBSA would prohibit
13 entry, but rather it would look to detain the individual?

14 **MR. JOHN OSSOWSKI:** Likely.

15 **MS. ANDREA GONSALVES:** And then there are two
16 options from there: Either to transfer the individual to the
17 police of jurisdiction to handle concerns about future crime;
18 that's one option.

19 **MR. JOHN OSSOWSKI:** Yes.

20 **MS. ANDREA GONSALVES:** Or CBSA could prepare an
21 Inadmissibility Report on security grounds under IRPA and then
22 that would trigger the inadmissibility process before the
23 Immigration Board; that would be the other option?

24 **MR. JOHN OSSOWSKI:** I agree, yeah.

25 **MS. ANDREA GONSALVES:** And both of those entail
26 delay and expenditure of resources that is significant?

27 **MR. JOHN OSSOWSKI:** Yes.

28 **MS. ANDREA GONSALVES:** So it's not a situation of

1 being analogous to the EMR provisions that create a direct back
2 power where the individual could simply be denied entry.

3 **MR. JOHN OSSOWSKI:** Correct.

4 **MS. ANDREA GONSALVES:** Okay. You testified that
5 CBSA collected information from open sources, including social
6 media in relation to the convoy protest.

7 **MR. JOHN OSSOWSKI:** That's correct.

8 **MS. ANDREA GONSALVES:** And based on the
9 information that was available to you, did you understand that
10 there were connections between the Ottawa protests and the
11 border blockades?

12 **MR. JOHN OSSOWSKI:** I think events like this,
13 they feed off each other's energy and their successes and
14 defeats, so I think even -- it might not have been direct but
15 certainly through social media channels, I would say that there
16 was an implicit link between what was happening all across the
17 country with all of the different activities.

18 **MS. ANDREA GONSALVES:** So let's go to
19 PB.CAN.00001317.

20 (SHORT PAUSE)

21 **MS. ANDREA GONSALVES:** And this is an email from
22 Lynne Lamarche, who's with the CBSA?

23 **MR. JOHN OSSOWSKI:** Yes.

24 **MS. ANDREA GONSALVES:** And if we scroll down, she
25 discusses reports this morning from information received by BIS
26 operations. What's BIS?

27 **MR. JOHN OSSOWSKI:** Border Information Service.

28 **MS. ANDREA GONSALVES:** Okay. And pasted there is

1 information received from the public by email, and we see where
2 it's shaded in the first bullet:

3 "In Alberta, those who cannot go to
4 Ottawa are being encouraged to block
5 the Coutts border and not move until
6 the demands in Ottawa are met."

7 And so is that the sort of information that
8 you're discussing when you said about energies feeding each
9 other?

10 **MR. JOHN OSSOWSKI:** Yes.

11 **MS. ANDREA GONSALVES:** And let's go to
12 PB.CAN.00001523.

13 (SHORT PAUSE)

14 **MS. ANDREA GONSALVES:** This is a CBSA Prairie
15 Region Intelligence Alert, and if we scroll down they're
16 reporting on some information about a group that intends to stay
17 at the Coutts border, and if we look to right there they're
18 talking about -- there's the poster, and it says:

19 "Trucks [and] vehicles all over Alberta
20 [are] planning to head for Coutts,
21 [Alberta] starting Jan 29 and [are]
22 staying there until all mandates and
23 restrictions are lifted."

24 And did you have any understanding about whether
25 that -- well, in fact, on the left it says:

26 "Sources indicate that the group
27 intends to stay at the border as long
28 as the larger convoy stays in Ottawa."

1 support the protest and if you want a
2 war on your people we are prepared to
3 die to stop you. No Border of yours
4 will hold us back! Liberty or Death.
5 You Choose!"

6 I take it this is being reported by the BOC
7 because that's a matter of concern for CBSA?

8 **MR. JOHN OSSOWSKI:** Yes.

9 **MS. ANDREA GONSALVES:** And the second one, which
10 is sent on February 12th, says:

11 "In the event there is no solution and
12 the Canadian Government continues it's
13 [sic] destructive path we are prepping
14 to come to Canada to support THE
15 PEOPLE'S FIGHT AGAINST CANADIAN
16 GOVERNMENT TYRANNY! We will donate a
17 Gallows to The People of Canada to
18 Assemble for Justin's hanging."

19 Again, that was a matter of concern for the CBSA?

20 **MR. JOHN OSSOWSKI:** Yes, it was.

21 **MS. ANDREA GONSALVES:** Let's go to
22 SSM.NSC.CAN00000351.

23 (SHORT PAUSE)

24 **MS. ANDREA GONSALVES:** And this is a CBSA Sit Rep
25 February 17th, 1600 hours. So this is a few days post-
26 invocation.

27 And let's go down to page 4, please. Under that
28 chart. Pausing there.

1 "[February 16th], Border Information
2 Services...is reporting increased
3 activity related to the COVID Mandate
4 protests; email containing conspiracy
5 theories., threats [...] against the
6 CBSA and Law Enforcement agencies from
7 the same phone number and an increase
8 in calls relating to the importation of
9 items such as body armour, ammunition,
10 firearms, and gas masks."

11 And was that report a matter of concern for the
12 CBSA?

13 **MR. JOHN OSSOWSKI:** Absolutely, and we referred
14 to that in the institutional report as well, where people were
15 asking for information particularly on amour piercing and
16 Teflon-coated bullets and what it would take to import those
17 into Canada.

18 **MS. ANDREA GONSALVES:** That's not something you
19 see very often at CBSA I assume?

20 **MR. JOHN OSSOWSKI:** No.

21 **MS. ANDREA GONSALVES:** And let's go to
22 OPP00000938.

23 Mr. Ossowski, what is a controlled delivery?

24 **MR. JOHN OSSOWSKI:** Controlled delivery is when
25 we pick up something at the border, usually in courier or postal
26 mode, that is prohibited and we'll work with the local police of
27 jurisdiction to deliver the goods in order to ascertain the
28 extent of if it's an organized crime ring, or whatever, to sort

1 of instead of just holding back the good, to actually see what -
2 - if there's any further criminal activity that needs to be
3 investigated.

4 **MS. ANDREA GONSALVES:** Okay. So if we go down to
5 page 3, this is an OPP document. And it advises that,

6 "At 4 am on the 17th of February [...]
7 CBSA and OPP [...] executed a weapons
8 importation warrant in the York Region
9 [...]. Upon entry to the residence it
10 was discovered [...] the suspect was
11 not present [but] firearms and
12 ammunition were observed located
13 improperly stored in the residence. A
14 3D printer was located. The POI..."

15 I understand it to be person of interest,
16 "...had ordered parts to complete a
17 Glock style handgun ([...] items seized
18 by CBSA). [...] believed [they may
19 have been --] may have manufactured
20 frames using the 3D printer. Machetes
21 were located at entry doors and
22 antigovernment/police notice was
23 observed taped to the front storm door
24 [...]. The POI is prohibited firearms.
25 Neighbours indicate he is currently in
26 Ottawa."

27 Is that information that you knew at the time?

28 **MR. JOHN OSSOWSKI:** At the time it was reported

1 to me, yes.

2 **MS. ANDREA GONSALVES:** Okay. And if we scroll
3 up, please, to the top of page 2.

4 So I understand that the OPP put out a BOLO, a be
5 on the lookout for this individual?

6 **MR. JOHN OSSOWSKI:** Yes.

7 **MS. ANDREA GONSALVES:** And it says here,
8 "The phone was just pinged and the
9 location has him within 8 meters of the
10 war memorial..."

11 And that's in Ottawa at the time of the protests?

12 **MR. JOHN OSSOWSKI:** Yes, it is.

13 **MS. ANDREA GONSALVES:** And then if we go to
14 PB.NSC.00004460? This is a email on Okanagan Nation Alliance
15 letterhead sent to the Prime Minister, Premier of B.C., Minister
16 Miller and Minister Mendocino, and this was also copied to you
17 by cc?

18 **MR. JOHN OSSOWSKI:** M'hm.

19 **MS. ANDREA GONSALVES:** Sorry, we just need a ---

20 **MR. JOHN OSSOWSKI:** Yes.

21 **MS. ANDREA GONSALVES:** Yeah. And I understand
22 this is a letter regarding an assault of a Syilx Nation member
23 by protesters at the Osoyoos border crossing; is that correct?

24 **MR. JOHN OSSOWSKI:** Yes, it is.

25 **MS. ANDREA GONSALVES:** Yeah. I believe,
26 Commissioner, I still have a few minutes. I just wanted to go
27 to a couple of videos. Let's go to PB.CAN.00001800. And we're
28 going to begin at the 2 minute 49 second mark.

1 [VIDEO PLAYBACK BEGINS]

2 **MS. ANDREA GONSALVES:** And this is -- there's no
3 sound on the video, so I'll just speak. What we're seeing is
4 time-accelerated footage of the backup at the Bluewater Bridge
5 as of February 8th, which is the second day of the blockade in
6 Windsor?

7 **MR. JOHN OSSOWSKI:** Yes.

8 **MS. ANDREA GONSALVES:** And you mentioned before,
9 you said at one point, this backup was approximately 10
10 kilometres long?

11 **MR. JOHN OSSOWSKI:** That's correct.

12 **MS. ANDREA GONSALVES:** We'll let it continue to
13 play while I ask my questions. When we look at a backup of this
14 nature, would this meet the one-hour service standard for
15 processing that the CBSA sets?

16 **MR. JOHN OSSOWSKI:** Absolutely not.

17 **MS. ANDREA GONSALVES:** And this is, as I said,
18 only one day after the Windsor blockade. You mentioned the
19 difference in the lanes for commercial vehicle processing
20 between Ambassador and Bluewater Bridge. You recall that
21 evidence?

22 **MR. JOHN OSSOWSKI:** Yes.

23 **MS. ANDREA GONSALVES:** And so when we look at
24 that footage -- we can stop it there.

25 [VIDEO PLAYBACK ENDS]

26 **MS. ANDREA GONSALVES:** Would you say that
27 Bluewater on its own was a viable solution to the Windsor
28 blockade?

1 **MR. JOHN OSSOWSKI:** As I testified earlier, it
2 was not able to accommodate all of the volume that would
3 normally have gone through the Ambassador Bridge.

4 **MS. ANDREA GONSALVES:** And if the Bluewater
5 Bridge was blockaded at the same time as the blockade in
6 Windsor, what would the impact of that have been?

7 **MR. JOHN OSSOWSKI:** Well, it would have made it
8 very unfeasible for traffic that was hoping to cross in that
9 part of southern Ontario to do their particular trade, because
10 the next available ports of entry were 400 kilometres away at
11 Queenston/Lewiston or the Peace Bridge.

12 **MS. ANDREA GONSALVES:** And are you able to able
13 to comment on how long it would take to work through a backlog
14 of that nature even once the blockades are cleared?

15 **MR. JOHN OSSOWSKI:** I don't have the volume of
16 the actual number of vehicles involved there, but, you know,
17 essentially, the process takes say on average a minute per
18 vehicle to do that and you only have 7 lanes available to you at
19 the Bluewater Bridge, and so I think there -- you know, the math
20 could be done in terms of how long that -- it was certainly well
21 beyond an hour.

22 **MS. ANDREA GONSALVES:** Okay. And my last video
23 and last set of questions, PB.CAN.00001802. And we'll begin at
24 the 7-minute 26-second mark.

25 (VIDEO PLAYBACK)

26 **MS. ANDREA GONSALVES:** And you testified earlier,
27 Mr. Ossowski, about the activity at the Pacific Highway port of
28 entry?

1 **MR. JOHN OSSOWSKI:** Yes.

2 (VIDEO PLAYBACK)

3 **MS. ANDREA GONSALVES:** We can stop that there.

4 Mr. Ossowski, did we see in the video what you
5 were describing of the protest being essentially on the doorstep
6 of the plaza, the POE?

7 **MR. JOHN OSSOWSKI:** That's correct.

8 **MS. ANDREA GONSALVES:** And the vehicle that you
9 described military style being painted in camouflage?

10 **MR. JOHN OSSOWSKI:** That's correct.

11 **MS. ANDREA GONSALVES:** Okay. Thank you. Those
12 are my questions.

13 **COMMISSIONER ROULEAU:** Okay. Thank you. Any
14 reply?

15 **MR. GORDON CAMERON:** Thank you, Commissioner.

16 **--- RE-EXAMINATION BY MR. GORDON CAMERON:**

17 **MR. GORDON CAMERON:** Just briefly I'd like to
18 take the witness back, and, Mr. Clerk, could you call up for me,
19 please, SSM.NSC.CAN.00001519? And go to page 8 of that
20 document.

21 Mr. Ossowski, this is the February 14th in the
22 afternoon, the one that is dated February 14th, 2022, 1600
23 Eastern Time. And this is the one we looked at before where the
24 sentence is added to the bluff, bottom line, up front heading of
25 the Intelligence Landscape, and on the next page, a line was
26 added:

27 "There has been a significant
28 operational impact that may result in a

1 threat to Canada's economic security
2 and prosperity."

3 And when I asked you questions about this before,
4 I might not have gotten as complete an answer as I should have
5 about why you believe that sentence appeared on that document.

6 Do you know where it came from? That is, where
7 the person who added that sentence got the information and why
8 they decided to put it there?

9 **MR. JOHN OSSOWSKI:** I don't know why they decided
10 to put it there, but when we were made aware of this additional
11 sentence the colleagues at CBSA went and made some enquiries,
12 and my understanding is what they found out is the Acting
13 Director General at the Border Operation Centre decided to add
14 that line in.

15 **MR. GORDON CAMERON:** So if I can just put a
16 little flesh on what you were saying. What you're saying is
17 when this point was put to you in your interview by
18 Commission Counsel you then followed up on this point?

19 **MR. JOHN OSSOWSKI:** Yes, we did.

20 **MR. GORDON CAMERON:** And can you repeat that
21 again? It sounds like you consulted with the person who added
22 this sentence, and the answer was they decided to add the
23 sentence.

24 **MR. JOHN OSSOWSKI:** I don't understand or have
25 any intel -- understanding of what their motivation was to add
26 this in, but I think that what was reported to me was is that
27 with all the activities that had escalated to that point in
28 time, they decided to put that particular language in. I also

1 believe they said that this was not an attempt to provide any
2 tacit or implied support for the *Emergencies Act*. So that's all
3 I know about it.

4 **MR. GORDON CAMERON:** Thank you.

5 Mr. Commissioner, that's the only matter I wanted
6 to follow up on.

7 **COMMISSIONER ROULEAU:** Okay. Thank you.

8 So thank you very much for coming and testifying.
9 You're free to go back to your retirement, and it's much
10 appreciated that you came to give evidence today.

11 **MR. JOHN OSSOWSKI:** Thank you very much.

12 **COMMISSIONER ROULEAU:** Okay. So next, we have, I
13 believe, a panel. It may be preferable that we take a short
14 break to organise the panel; is that...? So I'll just take five
15 minutes to do that if that's agreeable. So we'll just take a
16 five minute break and come back.

17 **THE REGISTRAR:** The Commission is in recess for
18 5 minutes. La Commission est levée pour 5 minutes.

19 --- Upon recessing at 12:21 p.m.

20 --- Upon resuming at 12:27 p.m.

21 **THE REGISTRAR:** Order. À l'ordre. The Commission
22 has reconvened. La Commission reprend.

23 **MR. GORDON CAMERON:** Good morning, Commissioner.
24 We have now the panel for Transport Canada. Could I ask that
25 the witnesses be sworn?

26 **THE REGISTRAR:** Mr. Keenan, will you swear on a
27 religious document or do you wish to affirm?

28 **DM MICHAEL KEENAN:** A religious document.

1 **THE REGISTRAR:** We have the Bible, the Koran or
2 the Torah available.

3 **DM MICHAEL KEENAN:** Bible, please.

4 **THE REGISTRAR:** For the record, please state your
5 full name and spell it out.

6 **DM MICHAEL KEENAN:** Michael James Keenan. Last
7 name is K-E-E-N-A-N.

8 --- DM MICHAEL KEENAN, Sworn:

9 **THE REGISTRAR:** Mr. Dea, will you swear on a
10 religious document or do you wish to affirm?

11 **MR. CHRISTIAN DEA:** The Bible will be...

12 **THE REGISTRAR:** For the record, please state your
13 full name and spell it out.

14 **MR. CHRISTIAN DEA:** Yes. My name is Christian
15 Dea, D-E-A.

16 --- MR. CHRISTIAN DEA, Sworn:

17 --- EXAMINATION IN-CHIEF BY MR. GORDON CAMERON:

18 **MR. GORDON CAMERON:** Good afternoon, gentlemen.
19 My name's Gordon Cameron and I have some questions for you on
20 behalf of Commission Counsel.

21 First, I would ask you to cast your minds back to
22 August 30th of this year when you were interviewed by my
23 colleagues in company with some of your colleagues. And so what
24 I'm going to ask you to do is confirm to some extent what you
25 can confirm and to some extent what you can confirm on behalf of
26 your colleagues, and in particular, have you reviewed the
27 summary of that interview that was prepared by
28 Commission Counsel?

1 **DM MICHAEL KEENAN:** Yes, I have.

2 **MR. GORDON CAMERON:** And you, Mr. Dea?

3 **MR. CHRISTIAN DEA:** Yes, I have.

4 **MR. GORDON CAMERON:** Thank you. And to the
5 extent that that summary captures information that you two
6 provided to Commission Counsel, can you confirm that it's
7 accurate and that you adopt it as your evidence before the
8 Commission?

9 **DM MICHAEL KEENAN:** Yes, and yes.

10 **MR. CHRISTIAN DEA:** Yes, as well.

11 **MR. GORDON CAMERON:** Thank you. And to the
12 extent the information is that of your colleagues at the
13 interview, can you confirm that it was reviewed by them for
14 accuracy and believe it to be accurate?

15 **DM MICHAEL KEENAN:** Yes, and yes.

16 **MR. GORDON CAMERON:** Thank you. And also,
17 Transport Canada filed a -- an institutional report with the
18 Commission. Can you confirm that that document is accurate and
19 that it forms part of the evidence that Transport Canada has
20 submitted to the Commission?

21 **DM MICHAEL KEENAN:** Yes.

22 **MR. GORDON CAMERON:** Thank you very much. Now,
23 let me ask you each, gentlemen, to introduce yourselves and
24 describe the role you have in Transport Canada.

25 **DM MICHAEL KEENAN:** My name is Michael Keenan. I
26 am the Deputy Minister of Transport Canada. So I am responsible
27 for overseeing all aspects of the operations of Transport
28 Canada, and I'm the head of the transport portfolio, which

1 includes eight Crown corporations, four agencies, and fifty
2 shared governance organisations, and I am responsible for
3 providing advice to the Minister of Transport.

4 **MR. GORDON CAMERON:** Thank you.

5 And Mr. Dea, can you give us an outline of your
6 position and what you do there?

7 **MR. CHRISTIAN DEA:** Yes. My name is Christian
8 Dea. I'm the Chief Economist and the DG, Director General, of
9 the Transportation Economic Analysis Unit at Transport Canada.

10 My role and the role of my group at Transport
11 Canada is to monitor the performance of the transportation
12 system and to conduct economic assessment on any disruption
13 affecting the transportation system. And in doing so, I'm
14 providing the advice and the result of the analysis to the
15 senior management, including the deputy and the minister.

16 **MR. GORDON CAMERON:** Thank you. And if I can go
17 back to you, Mr. Keenan, and ask you to describe -- it would
18 probably take you all day if you were comprehensive, but just
19 describe what Transport Canada does, what its jurisdiction --
20 what is the federal jurisdiction that Transport Canada
21 administers?

22 **DM MICHAEL KEENAN:** So Transport Canada is
23 responsible for all aspects of the Canadian transportation
24 system that is within federal jurisdiction. And we have three
25 key priorities that we pursue across the organization of 6,400
26 people.

27 The first is to ensure the safety and security of
28 the part of the national transportation system that's in federal

1 jurisdiction, ensure the environmental safety, environmental
2 green performance, and then -- and to ensure the system is
3 efficient, both for moving people and goods and so that there is
4 a strong trade and transportation network.

5 In terms of jurisdiction -- and it varies by
6 mode, so in aviation, it's essentially exclusively federal
7 jurisdiction, so Transport Canada is responsible for all aspects
8 of aviation, working with international partners like the
9 International Civil Aviation Organization.

10 It is responsible for the vast majority of marine
11 transportation, although there is some provincial involvement;
12 the majority of rail transportation. Road transportation is
13 very much a shared jurisdiction. Transport Canada is
14 responsible for some aspects, but provincial governments are
15 responsible for significant aspects as well, and we have
16 significant federal/provincial/territorial governance to
17 coordinate our efforts in that respect.

18 **MR. GORDON CAMERON:** And I'm going to ask you to
19 expand on exactly that last point that you mentioned, that road
20 transportation -- which of course is, for a truckers' convoy,
21 the more relevant aspect of your department's jurisdiction --
22 for road transportation, you have this divided jurisdiction
23 where there are federal responsibilities but there are also
24 provincial responsibilities.

25 If you could just describe to some extent what
26 that division is, and then I'll ask you to expand on how that
27 prompts you to have interfaces with the provincial and
28 territorial authorities.

1 **DM MICHAEL KEENAN:** So in the area of road
2 transportation, Transport Canada has responsibilities under two
3 pieces of -- principally under two pieces of legislation; there
4 are some others. We administer 74 Acts and 400 sets of
5 regulations, but the two principle Acts involved here, the *Motor*
6 *Vehicle Safety Act*, where we certify the importation and the use
7 of motor vehicles as to their safety; and the *Motor Vehicle*
8 *Transport Act*, where we have responsibilities and authorities
9 with respect to international and interprovincial road
10 transportation. Intra-provincial road transportation, i.e.,
11 within a province, is the -- is essentially the exclusive domain
12 of the province except for the aspects that touch the *Motor*
13 *Vehicle Safety Act*, which is the safe -- the certifying that the
14 equipment is safe.

15 In practice, while we have, for example,
16 international, interprovincial trucking, things like their safe
17 practices, like, hours of service limits for truckers, in
18 practice, that is federal. The interprovincial rules are
19 federal jurisdiction, but for trucks that don't travel
20 interprovincially, they're provincial jurisdiction.

21 We work together very closely at the two levels
22 of government and there's a lot of coordination of all of the
23 rules and the regulations and the policies with respect to
24 commercial transport through the CCMTA, the Canadian Council for
25 Motor Transport Administrators; and the Council of Deputy
26 Ministers of Transport; and the Council of Ministers of
27 Transport.

28 Some of the federal rules, we delegate to

1 provincial authorities to enforce, for example, the hours of
2 service with respect to interprovincial trucking. And we work
3 as much as possible to get an alignment between the provincial
4 and the federal rules so there is as much as possible a
5 consistent set of rules across Canada. Canada being a
6 decentralized federation, there is some diversity in the rules
7 across the country with respect to motor vehicle transport.

8 The use, the licensing of the operators and the
9 conduct and the operation of the vehicles on the roads is
10 typically in provincial jurisdiction and most provinces have
11 something like a *Highways Act* that where they set out the -- all
12 of the rules and governs the regulations by which they oversee
13 the use -- the transportation on the roads and highways, each
14 province.

15 **MR. GORDON CAMERON:** Thank you for that.

16 And now, if you could help us with the second
17 half of what you were describing, which is as the result of that
18 interplay between the federal jurisdiction over some aspects of
19 transportation by motor vehicle and the jurisdiction of the
20 provinces over other and territories over other aspects, you
21 have quite a bit of intergovernmental connection at your level,
22 and probably at the level of the people that work with you.

23 But can you expand on that for us?

24 **DM MICHAEL KEENAN:** I think that's exactly it.
25 For the reasons you stated, the effective transportation policy
26 in Canada requires extensive intergovernmental coordination.
27 And so it starts at the top of it, there's a council of
28 Ministers of Transport and Road Safety. And then there's a

1 Council of Deputy Ministers of Transport and Road Safety that I
2 coach here with a rotating provincial partner. There is the
3 Canadian Council of Motor Transport Administrators. There is a
4 group of Assistant Deputy Ministers, people that report to
5 Deputy Ministers; the PPSC, the Policy, Planning, and Support
6 Committee; and there are, I would guess, at any moment in time
7 under PPSC and CCMTA -- and I apologize for the acronyms --
8 there are probably a dozen working groups of various experts
9 working on some aspect of coordinating federal and provincial
10 transportation policy.

11 **MR. GORDON CAMERON:** Now, with that background in
12 mind, both the complexity of the overlapping jurisdictions and
13 the extent of your network, the network that your department is
14 responsible and presumably also you personally have between the
15 federal government and the provincial government, I want to take
16 you to the beginning of the convoy and the days as it is just
17 sort of starting to appear on the horizon.

18 What did Transport Canada see, when, and what was
19 your reaction?

20 **DM MICHAEL KEENAN:** At Transport Canada, we began
21 to -- we saw -- and sort of in the lead up to that weekend of
22 the 22nd, 23rd, which was a full week before the trucks arrived
23 in Ottawa, we began to see the reports of trucker convoys that
24 was just beginning to show up on the screen.

25 I think some folks in the department noticed
26 something as far back as January 19th. I think that's in our
27 institutional report. It came to my attention around, I would
28 say, the 22nd.

1 And we were initially watching it because it was
2 truckers, and so there was for two reasons. One is we have
3 relationships with the commercial trucking industry. The second
4 is that when you have convoys and the prospect of slow rolls,
5 that has a potential to have an impact on the transportation and
6 trade corridor system, a potentially negative one.

7 So we began watching it about a bit more than a
8 week before the trucks got to Ottawa. And then shortly after
9 that, it began -- the interdepartmental monitoring and
10 deliberations began through the deputy -- for example, the
11 Deputy Minister's Operations Committee, DMOCC, of which I'm a
12 standing member.

13 **MR. GORDON CAMERON:** I'm just going to stop you.
14 Just -- we've heard about that, and -- but I'd just like you to
15 rewind just a little bit, describe the committee again, and what
16 your role is in it.

17 **DM MICHAEL KEENAN:** Sure. The Deputy Ministers'
18 Operating Committee is a standing committee of about eight
19 Deputy Ministers who have responsibilities that are directly
20 related to maintaining the safety and security of Canadians and
21 protecting the national security of Canada. It's chaired by the
22 National Security and Intelligence Advisor, the Prime Minister,
23 and it has -- the security agencies are RCMP, CSEC, et cetera,
24 as well as a number of departments that have responsibilities
25 that connect directly to the safety and security of Canadians.

26 Transport Canada is one of them. Our
27 responsibilities in that respect are geared towards the
28 transportation system, but we have significant responsibilities

1 with both respect to safety and security. For example, a threat
2 -- there's -- there have been, unfortunately, in the past,
3 terrorist and ideologically motivated extremists have targeted
4 the transportation system. And so we have a mandate to ensure
5 the system is safe from such attacks.

6 **MR. GORDON CAMERON:** And so I had interrupted you
7 there when you were describing the invocation of the ADMNSOPs
8 meeting that you attended as the convoy was coming onto the
9 horizon.

10 **DM MICHAEL KEENAN:** A small correction, if you'll
11 permit me. I'm a member of DMOCC, the Deputy Minister's
12 Operating Committee.

13 **MR. GORDON CAMERON:** Sorry.

14 **DM MICHAEL KEENAN:** But my assistant -- my
15 Assistant Deputy Minister for Safety and Security is a member of
16 the ADMNSOPs.

17 **MR. GORDON CAMERON:** Thank you. So you were
18 describing the DMOCC. Please go ahead with that.

19 **DM MICHAEL KEENAN:** So Transport, because of it
20 was -- it started out with, I would say, the brand of a trucking
21 -- of a truck convoy and a trucker protest, Transport was
22 involved because we were monitoring early because of our
23 relationships with the industry. The -- that started a few days
24 before the DMOCC -- I think the first DMOCC meetings on this
25 were early -- around the 24th or 25th. Around there.

26 The one thing that came to our attention fairly
27 early on is that the brand of a trucker convoy wasn't really
28 accurate. And in fact, when we talked to the professional

1 trucking industry, the Canadian Trucking Alliance, the Private
2 Motor Carriers Transport -- PMTC, I can't remember, too many
3 acronyms, focused on acronyms, -- they made it clear that this
4 wasn't them and this didn't represent the professional trucking
5 industry and pretty quickly started making public statements
6 eventually -- initially distancing themselves from this
7 activity, and then making it clear that they didn't support it,
8 and then finally, articulating how it was harming professional
9 truckers.

10 **MR. GORDON CAMERON:** And can you describe the
11 steps then that your department started to take to respond to
12 the emerging convoy?

13 **DM MICHAEL KEENAN:** The first step was trying to
14 understand what was happening and what was brewing, because as I
15 think you may have heard from other witnesses, it was quite hard
16 to get a fix on, because there was -- it was rapidly changing,
17 it was dynamic, and quite unpredictable. So it would have been
18 some initial discussion with industry partners to get a sense of
19 what was going on and finding that point I raised, that it
20 really wasn't the industry, per say.

21 Second was working with the -- in the structure
22 of DMOCC and ADMNSOPs, working with our partners in public
23 safety to understand what was -- what the collective assessment
24 was of what's going on.

25 So that was a key aspect of the -- I would say
26 the early activities leading up to the arrival of the movement
27 in Ottawa.

28 As things progressed, our roles evolved into

1 probably about four different types of activities.

2 **MR. GORDON CAMERON:** Why don't you list those now
3 and we'll go from there?

4 **DM MICHAEL KEENAN:** Sure. So the first, I just
5 covered.

6 The second is that as the -- as we started to see
7 blockades and occupations, we started analyzing what the
8 potential impact was on eh trade and transportation system. And
9 then that accumulated in, I would say, peak impact, once the
10 Ambassador Bridge was closed for several days.

11 The third is that when you start -- in the event
12 of major events, protests, incidents, whatever, that requires a
13 large and complex police response and crowds, Transport Canada
14 will provide a certain sort of technical expertise and
15 authorities in support of local law enforcement. And in this
16 crisis, we did that in two ways. The first is that we --
17 because of our responsibility for aviation, we will close air
18 space at the request of local police as they try to manage large
19 events, riots, whatever the activity.

20 Over the course of this crisis, I think we issued
21 air space restrictions, they're called NOTAMs, Notice to Airmen.
22 So -- and we issued about -- we issued them in about a dozen
23 cities across Canada. And we do that as a matter of course when
24 the police of jurisdiction are seeking that in order to help
25 them manage some major event or crisis.

26 The other aspect of operational support is that
27 we make our sort of -- we essentially make our authorities and
28 our expertise available in support of police of local

1 jurisdiction as required. And that will vary. In this
2 incident, one very relevant authority and expertise we have is
3 the transportation of dangerous goods. We have a significant
4 directorate and we have significant responsibilities to ensure
5 the safe transportation of dangerous goods in Canada.

6 And I think around the 9th of February, the Ottawa
7 Police Service, who was -- they were growing quite alarmed at
8 the extent of propane being stored in unorthodox manners and the
9 extent of the transportation of diesel and gasoline, and they
10 sought some expert advice and support from Transport Canada.

11 We had the same assessment, just watching from a
12 distance. There was a lot of dangerous conduct with respect to
13 explosive and flammable material, like propane and diesel.

14 We provided two inspectors who did ride alongs
15 with the Ottawa Police Service to give them technical advice as
16 they were seeking to monitor and ensure the safety of the
17 occupation in Ottawa.

18 And over -- they were on scene with the OPS, I
19 think for about three days, and supported the OPS in writing up
20 probably about 20 sort of administrative monetary penalties for
21 violations of the safe handling of essentially a lot of propane
22 and diesel.

23 So I think the fourth, it would be the -- after
24 coming out of a meeting organized by my colleague, Deputy
25 Minister Stewart of Public Safety with the City of Ottawa and
26 the Ottawa Police Service, we were absolutely struck by the
27 overwhelming challenges the Ottawa Police Service was facing on
28 several areas. And that generated -- that led to some thinking

1 of how we could be of assistance to our front-line police of
2 jurisdiction. And from that, so in thinking about that, we
3 ended up developing two strategies that we worked with a lot of
4 partners on through the course of this national crisis. They
5 became known -- the first became known as the Strategic
6 Enforcement Strategy, and the second became known as the Tow
7 Truck Strategy.

8 And that would be, in sum, the four areas of work
9 by Transport Canada with respect to the crisis.

10 **MR. GORDON CAMERON:** Maybe I could ask the Clerk
11 to call up for us PB.CAN.00000860?

12 Now to assist you, Mr. Keenan, I'll draw your
13 attention to the upper right-hand corner of this page where it
14 says, "Working Draft February 13, 2022". But we haven't found a
15 later draft, and I think that you've confirmed for us already
16 that this is effectively the final version of this strategy. Is
17 that right?

18 **DM MICHAEL KEENAN:** Yes, that's correct.

19 **MR. GORDON CAMERON:** And describe if you can what
20 you were trying to accomplish with the strategic enforcement
21 strategy.

22 **DM MICHAEL KEENAN:** Sure. So the genesis of the
23 strategy enforcement strategy came out of the February 3rd call
24 between a few Deputy Ministers of Canada with the City of
25 Ottawa, the Chief and a few senior officers of the Ottawa Police
26 Service. And in -- it was an update on the situation in the
27 NCR, was the purpose of it.

28 When the Ottawa Police Service described the

1 challenge they were facing, I think we were all struck -- I know
2 I was personally struck by three things. The first is that the
3 sheer scale of the -- and intensity of the unlawful activity was
4 eclipsing their ability to manage, clearly.

5 The second is that when they applied fines, they
6 were issuing fines to the people blocking the street, and they
7 were quite struck by they just ignored the fines, they threw
8 them out, they laughed, whatever. So they were -- the
9 deterrence effect from the fines that they were levying seemed
10 to be very low.

11 The third is that when they did try to -- when
12 they did try to take -- when an officer tried to take an
13 enforcement action, they would often be swarmed and then they
14 would have to back down in what they described as in the
15 interests of officer safety and public safety.

16 And the fourth was that they were trying to build
17 an operational plan to bring the occupation to an end, but one
18 of the -- one of the impediments was they were unable to secure
19 the heavy tow trucks they needed to move the commercial
20 vehicles.

21 And so we found that was a very sobering
22 discussion. In coming back from that and reflecting on that, we
23 had discussions inside Transport Canada, briefed Minister
24 Alghabra, and he was obviously keen for us to do whatever we
25 could do to help resolve the situation. And that because we're
26 a large organization with extensive regulatory responsibilities,
27 we have a large oversight operation, compliance operation,
28 enforcement operation, we have some expertise in compliance

1 promotion and encouraging and strategies to encourage parties to
2 comply with, well, usually transport regulations short of actual
3 enforcement.

4 And so we started developing two sets of things.
5 One was a strategic enforcement strategy, and that's the
6 document you have here. The other's a tow truck strategy.

7 The idea here was to try and marshal every legal
8 resources available and all of the best practices and strategies
9 to try and convince people that, first of all, what they're
10 doing is illegal because there was some sense that a number of
11 the people involved in the occupation did not have a clear
12 understanding of how much illegal activity they were
13 undertaking. Second, the consequences of it and how that is --
14 could be quite significant adverse consequences for them.
15 Third, to -- thereby encouraging them, at least the ones that
16 were open to any persuasion, to cease participating in the
17 occupation and thereby so-called shrink the footprint.

18 And so the -- given the fact that the initial
19 attempt to levy fines, according to the Ottawa Police Service,
20 had no effect, the thinking here was what if we looked at all
21 available legal tools and had a comprehensive approach to
22 deploying everything, municipal by-laws, *Highway Traffic Act*,
23 *Criminal Code*, et cetera both in terms of as a communications
24 exercise to encourage people to cease and desist the illegal
25 activity and then, as necessary, using multi-pronged sort of
26 options for enforcement.

27 This product you see here, the February 13th
28 final draft, was the -- was the ultimate product of that initial

1 thinking on the part of Transport Canada, but it was refined
2 through extensive discussions and consultations with our federal
3 partners and with our provincial partners. It had -- it went to
4 probably, I would say, call it 10 different federal-provincial
5 discussions both with our provincial transport colleagues and
6 with Public Safety's provincial Solicitor-General Public Safety
7 colleagues.

8 **MR. GORDON CAMERON:** Okay. We're going to come
9 back to the aspect of inter-provincial cooperation in developing
10 this strategy. While we're, though, describing the items you
11 mentioned earlier in your list of points that Transport Canada
12 mobilized to react to the situation, can you tell us about the
13 tow truck policy or the approach that Transport Canada developed
14 to the point you were describing about the need for heavy lift
15 tow capacity?

16 **DM MICHAEL KEENAN:** And so that was the second
17 stream of thinking and strategizing that came out of the stark
18 realization from the February 3rd meeting with Ottawa, and the -
19 - we began exploring through a series of discussions both
20 through the meetings convened by Deputy Minister Stewart with
21 Ottawa and with our police and procurement colleagues at the
22 federal level and with provincial colleagues. We began
23 exploring options for solving -- what I would say solving the
24 tow truck problem.

25 What could be done in order to prevent -- to
26 address the fact that the tow truck industry was declining to
27 provide service to police in Ottawa, Coutts and multiple -- and
28 in Windsor, everywhere?

1 And so that ended up -- we ended up developing a
2 six-part tow truck strategy. The initial focus was to work
3 around, if you will, the inability to secure tow trucks by
4 having a strategy of using -- first of all, using this, the
5 strategic enforcement strategy, to try and convince the
6 commercial drivers that's in their best interests to stop, cease
7 and desist, and leave the occupation or the blockade because if
8 they voluntarily drive their truck home, we don't have to tow
9 it.

10 The second is that if -- in the event that you
11 can't secure the tow trucks, the services of the industry, but
12 police are ready for operations to bring the occupations and
13 blockades to an end, to have strategies like as you -- as they
14 enforce to get the keys and if they detain the driver because
15 they're breaking the law, have somebody who knows how to drive a
16 truck drive it away to some secure location.

17 A lot of the trucks were purposely disabled, and
18 so then you'd have to have -- the next stage was to have
19 mechanics get the truck in working order so it could be driven
20 away and then a key part of the strategy is that, having
21 maximized what you can do without tow truck services because
22 they were blanket refusal, looking at a whole range of
23 strategies to try and overcome the reluctance of the -- of this
24 part of the tow truck industry -- and I should emphasize that
25 because of the commercial vehicles involved, some locations you
26 needed not just your average, everyday CAA small tow truck that
27 shows up for a Honda Civic. You needed a large wrecker that had
28 the mechanical capacity with an operator with the skill to

1 safely move like a semi truck.

2 And so we worked through a series of ideas that
3 we kicked around with different partners to try and overcome the
4 reluctance of the -- of that specialized heavy wrecker or heavy
5 tow industry to provide service.

6 Through the course of that, it became clear how
7 deep we -- when we started this out around the 5th or 6th, we
8 were optimistic we could find a solution. As we worked it and
9 worked it and worked it, we got to the 13th, we were still -- a
10 solution was still illusive.

11 And what we came to realize over this period was
12 essentially how deeply rooted the reluctance is from the
13 industry and they -- quite frankly, it was quite clear what --
14 the picture that emerged to us was quite clear that they felt
15 quite threatened and that -- that if they showed up and -- in
16 support of a police operation on a convoy, they were putting
17 their future business at risk, their property at risk and, to a
18 significant extent, their safety at risk.

19 And so while we thought we could figure out a
20 financial instrument that would get them to show up, we didn't -
21 - we weren't able to figure out a financial instrument strong
22 enough to overcome those threats.

23 **MR. GORDON CAMERON:** And whatever happened, then,
24 with the tow truck strategy? Did it get implemented in any
25 measure?

26 **DM MICHAEL KEENAN:** The -- it was the product of
27 a lot of discussions and, in some -- and was implemented in some
28 different -- some marginal ways in some places. Its ultimate

1 manifestation, I would say, was the -- was the fact that, having
2 sort of worked through all of this, that the ultimate
3 manifestation was that -- and I should make a point that,
4 interestingly enough, on the 12th and 13th, I think between
5 myself and the Assistant Deputy Minister of Safety and Security,
6 I think we had about four meetings and discussions to try and
7 find the solution to the -- to try and find a way where the tow
8 truck strategy would actually work.

9 We -- and there was some interesting back and
10 forth with different provinces, police and procurement officials
11 on that point.

12 Ultimately, I would say the tow truck strategy
13 found its -- was ultimately manifest in the *Emergency Act Orders*
14 where there was a specific provision to request essential
15 services, specifically tow trucks.

16 **MR. GORDON CAMERON:** If I can capture what you've
17 just said and then I'm going to ask you some questions about
18 this, the purpose of developing the tow truck strategy was to
19 come up with a solution to all of the parked trucks that -- that
20 is sort of obvious on its face, and you describe an effort in
21 which you and your colleagues try -- thought of everything you
22 could to deal with the fact that you needed to move these big
23 rigs, different ways of either getting them to go on their own
24 or to move them with tow trucks. And ultimately, by the 13th,
25 you'd basically decided there was not a viable solution with the
26 authorities you had at your disposal. Is that right?

27 **DM MICHAEL KEENAN:** I would say that we had -- by
28 the time we got to the 13th, we had failed to find a viable

1 solution.

2 **MR. GORDON CAMERON:** Right. Now, on that point,
3 what I'd like to hear is your response, if you're familiar
4 enough with the facts I'm going to suggest to you.

5 The Commission has heard evidence from different
6 representatives of the Ottawa Police Service and the Ontario
7 Provincial Police that they had had some success in securing
8 voluntary compliance from heavy lift tow truck operators without
9 -- this is before the *Emergencies Act* gave them authority to
10 compel that. So I'm not going to ask you to offer a view on the
11 truthfulness of that because I don't think you were directly
12 connected to it.

13 But do you -- did you have information about that
14 effort by the OPS and the OPP at the time you were developing
15 this tow truck strategy?

16 **DM MICHAEL KEENAN:** No. And I should say that
17 we'd had a lot of discussions with a lot of partners on the
18 strategy and we -- and no partner had shared any information
19 with us to that effect.

20 **MR. GORDON CAMERON:** And did your partners
21 include representatives of the OPS, the OPP and the Ontario
22 government?

23 **DM MICHAEL KEENAN:** To -- yes, they did.

24 **COMMISSIONER ROULEAU:** Is this a good time for
25 the lunch break?

26 **MR. GORDON CAMERON:** This is a perfect time.

27 **COMMISSIONER ROULEAU:** Okay. So we'll take the
28 lunch break and come back at 2 o'clock.

1 **THE REGISTRAR:** The Commission is in recess until
2 2 o'clock. La commission est lever jusqu'à 14 h.

3 --- Upon recessing at 1:07 p.m.

4 --- Upon resuming at 2:04 p.m.

5 **THE REGISTRAR:** The Commission is reconvened. La
6 Commission as reprend.

7 --- DM MICHAEL KEENAN, Resumed:

8 --- MR. CHRISTIAN DEA, Resumed:

9 --- EXAMINATION IN-CHIEF BY MR. GORDON CAMERON (Cont'd):

10 **MR. GORDON CAMERON:** Good afternoon again,
11 gentlemen. If I can pick up roughly where we left off, we had
12 run through the lifecycle of the tow truck strategy. And I
13 wanted to ask you some questions, and this will, to some extent,
14 bring back in your enforcement strategy and your tow truck
15 strategy, but just talk to you about the point we began with,
16 which was your federal, provincial, territorial coordination as
17 you were trying to come to solutions.

18 And in particular, I'll call up a document,
19 though I don't know if we'll need reference to it, but we'll get
20 it on the screen just in case we do.

21 It's SSM.CAN.00000363.

22 And to -- while that's coming up, Mr. Keenan,
23 you'll recollect, perhaps that on February 7th, Transport
24 Canada, Public Safety, and CBS convened a feds, provinces,
25 territories discussion?

26 **DM MICHAEL KEENAN:** Yes.

27 **MR. GORDON CAMERON:** And now, you can see on the
28 screen an email, "My notes from the FTP call". And if you -- if

1 to recollect your memory, and in response to any of my questions
2 you want to have the clerk scroll down and help you through your
3 answers, please feel free to do so. But perhaps just generally,
4 who convened the meeting?

5 **DM MICHAEL KEENAN:** The meeting was convened by
6 Deputy Minister Stewart of Public Safety, and -- but in part
7 upon the suggestion of myself.

8 **MR. GORDON CAMERON:** And what was the purpose of
9 the meeting?

10 **DM MICHAEL KEENAN:** There was a number of
11 purposes, but the -- it was to bring together the -- there was
12 one overall purpose, which was to bring together at the federal
13 and provincial level the deputy ministers of Public Safety and
14 Transport to take stock of developments, and to talk about ways
15 of working together to deal with this sort of rapidly evolving
16 national crisis.

17 **MR. GORDON CAMERON:** And then you have the notes
18 there that -- well, actually, I suppose I should back up a
19 second. It was a federal, provincial, and territorial meeting.
20 Without listing all the names, can you just describe the
21 categories of people who were participating in this?

22 **DM MICHAEL KEENAN:** There was probably three. At
23 the federal level it was -- it would have been the Deputy, Rob
24 Stewart and his -- some of his senior people from Public Safety,
25 the -- myself and senior folks from Transport Canada. And I see
26 here on the list, on the notes that we also had CBSA, which
27 would have -- I'm sure was John Ossowski. And then from the
28 provincial side, essentially my counterparts, the deputy

1 ministers of Transport or Transport and Road Safety from all of
2 the provinces and the territories. And then on the Public
3 Safety side, the Public Safety Departments or Solicitor General,
4 whatever they're called in each of those jurisdictions. So it
5 would have been a fairly significant number of people in total.

6 **MR. GORDON CAMERON:** Significant in number, and
7 it sounds like the senior or close to the most senior officials
8 in their portfolios for each province and territory?

9 **DM MICHAEL KEENAN:** Yes. And sometimes when you
10 have these calls, like sometimes when I'm called to a meeting,
11 I'll be called to two or three meetings at the same time, I will
12 delegate the less important ones. This was the most important
13 discussion any of us were having. So if my memory serves
14 correctly I think it was almost all of jurisdiction showed up
15 with the -- what you call the deputy head, deputy minister, or
16 deputy solicitor general, et cetera.

17 **MR. GORDON CAMERON:** And under the fourth bullet
18 there is a Transport Canada proposal, and the first bullet, I'll
19 help you through, I believe maximum enforcement strategy is one
20 of the early monikers for what became the strategic enforcement
21 strategy; is that right?

22 **DM MICHAEL KEENAN:** Yes, that's correct.

23 **MR. GORDON CAMERON:** Okay. So there's your
24 strategy and some bullet points for it. Did you present the
25 strategy, you or one of your officials?

26 **DM MICHAEL KEENAN:** I presented the strategy. At
27 that point we didn't have a written document, so I verbally
28 outlined the concept and the idea of the strategic enforcement

1 strategy, which at that time we were referring to as the maximum
2 enforcement strategy.

3 **MR. GORDON CAMERON:** And then, Clerk, if you
4 could just scroll down a little bit.

5 And then, Mr. Keenan, I'll ask you, what was the
6 reception to the strategy?

7 **DM MICHAEL KEENAN:** The -- as these notes that
8 Aaron and Assistant Deputy Minister of Transport took were
9 captured the next -- so you could see. In general, when we were
10 having this discussion, there was a cool reserved response by
11 provincial colleagues, good colleagues in collaboration, but
12 there was a lot of anxiety about the rapidly escalating scale of
13 unlawful behaviour. So everybody was nervous and being careful.
14 The -- that said, there were -- there was different complexions
15 in the response. Alberta had mixed feedback, as per these
16 notes. And they made the point that they -- we were seeking
17 both ideas and participation and engagement on the strategy, and
18 they were making it clear they were prepared to be engaged. The
19 appropriate and usual cautions about letting police make
20 operational decisions.

21 I think the -- as you go down, I think my
22 recollection is B.C. was more positive. Quebec was positive.
23 In fact, I think they were saying you can't -- that's the point
24 I was remembering, that not only were they supportive, they said
25 that the strategy that we were advocating aligned well to the
26 strategy that they had executed the last weekend to, in their
27 view, of some success.

28 **MR. GORDON CAMERON:** With respect to the protest

1 in Quebec City?

2 **DM MICHAEL KEENAN:** Yes.

3 **MR. GORDON CAMERON:** Yeah. And then how did
4 Ontario receive the strategy?

5 **DM MICHAEL KEENAN:** The -- I think they were in
6 the -- they were on the slightly cooler side. The government
7 should issue a statement of support for police. They were one
8 voice and there were -- to be fair to Ontario, there were other
9 voices that was uncomfortable with the word "maximum". And so
10 we -- in the spirit of building a consensus, we were happy to
11 change the word "maximum" to "strategic", at the expense of
12 making the title a little bit redundant.

13 **MR. GORDON CAMERON:** Now we're going to go to the
14 next day after this FPT meeting, February the 8th, and we're
15 going to talk about a letter you received and that I think you
16 know well by now, from the Ontario Deputy Minister of
17 Transportation, your counterpart in Ontario. Before we get
18 there, I'd like to put up, if you could, please, Mr. Clerk,
19 PB.CAN.00000820. And this is an email chain that starts with
20 the transmission of the letter, but -- okay. If you could go
21 back to the top, please, Clerk, just for a second? So not sure
22 where this ends up taking us through, but if you scroll down,
23 you'll come to a paragraph, "We have had several discussions..."
24 There we go.

25 So this is your contribution having received the
26 letter. And I'll just read this out, so that it's in the
27 transcript.

28 "We have had several discussions with

1 Ontario about enforcement options.
2 Ontario has always been cautious and
3 reserved about making full use of its
4 authorities under the *Highway Traffic*
5 *Act* but was engaged. This letter..."

6 And I'm going to try to ellipse your typos here,
7 but,

8 "This letter [...] represents a pull-
9 back from those discussions.

10 It is consistent with the pattern we
11 saw in the last 48 hours where Minister
12 Mulroney is unavailable to talk to
13 Minister Alghabra."

14 And then it's got your name at the end. Have I
15 been fair to the typos there and ---

16 **DM MICHAEL KEENAN:** Yes, I think you've done them
17 more than justice and I apologise for the typos that came ---

18 **MR. GORDON CAMERON:** Okay.

19 **DM MICHAEL KEENAN:** --- from typing fast.

20 **MR. GORDON CAMERON:** We've all been there. Now
21 we're going to go to the letter in a second, and you'd already
22 mentioned that in the FPT meeting you sensed some coolness to
23 Ontario and some of the other provinces about the enforcement
24 strategy.

25 But the reason I wanted to begin with this email
26 is you foreshadow by saying the letter was a less than embracing
27 acceptance of the enforcement strategy by Ontario. And you're
28 saying that that is consistent with the pattern in the last 48

1 hours. Can you explain what you mean by that about Minister
2 Mulroney, which would be an Ontario Minister, being unwilling to
3 talk to Minister Alghabra or unavailable?

4 **DM MICHAEL KEENAN:** Certainly. So the -- in the
5 follow-up from the -- on the call with the Ontario Police on the
6 3rd, so we started thinking about this on the 4th. And on the --
7 over the weekend of the 5th and 6th, had reached out to Ontario.
8 I reached out to the Deputy Minister Leblanc by phone. My
9 Assistant Deputy Minister of Safety and Security reached out to
10 his counterpart, and so we had started the conversation. And we
11 were getting good colleagues returning our calls, you know,
12 constructive discussion about cool and reserved. And so that
13 was notable.

14 At the same time, at the Ministerial level,
15 Minister Alghabra, because, well, obviously, briefing him day by
16 day, reached out, saw the importance of this issue, and reached
17 out to Minister Mulroney. And the normal course of events in
18 the good relationships amongst the Minister of Transport when
19 one Minister is keen to talk to another, they connect quite
20 quickly. They can be busy, but they'll find time. And it was
21 several days -- I guess here, it was -- at this point, it was at
22 least 48 hours where Minister Mulroney was unavailable to talk
23 to Minister Alghabra. And that then this letter arrived on
24 February 8th from -- in that context, this letter arrived in
25 February 8th from Deputy Minister Leblanc. And I believe that
26 Minister Mulroney then got back to Minister Alghabra and said
27 that my -- that we're providing a response -- my Deputy Minister
28 is providing a response to your Deputy Minister. And that

1 response was this letter. The -- not -- a slightly unorthodox
2 way of having those communications, but it did close the -- it
3 closed the loop.

4 **MR. GORDON CAMERON:** Okay. And just so we have
5 the cast of characters accurate, for those who haven't been
6 following this too closely, Minister Alhabra was the Federal
7 Minister of Transport and Minister Mulroney was Ontario's
8 Provincial Minister of Transport?

9 **DM MICHAEL KEENAN:** Yes.

10 **MR. GORDON CAMERON:** Thank you. Now if we can go
11 to the letter? Clerk, it would be PB.CAN.00000821.

12 Now you by now, I'm sure, are quite familiar with
13 this letter, and as a matter of fact, it's had some airtime at
14 the hearing already in front of other witnesses, so we don't
15 need to spend too much time on it, but perhaps you could explain
16 to me the substance of this response and your reaction to it.

17 **DM MICHAEL KEENAN:** The substance of the response
18 was, I guess, first and foremost, the tone of the response was
19 collaborative and collegial. The substance of the response was
20 negative in the following sense. And as you go through down --
21 if you could scroll down just maybe a little further? You can
22 stop there. Stop -- scroll up just slightly, please? Thank
23 you.

24 The -- there was an explanation for the -- this
25 is based on us inquiring about the possibility of finding a way
26 to leverage the potential sanction of a commercial truck driver
27 losing their commercial operating certificate because of
28 significant and repeated violations of the *Highway Traffic Act*

1 as a result of blocking a highway with a truck, honking the
2 horn, all of these violations of the *Highway Traffic Act*.

3 And we were sort of exploring that and sort of
4 asking a question to our provincial colleagues in charge of
5 that, like, what could be done here? And this is a very sort of
6 detailed sort of description of the various reasons why, and we
7 -- what I concluded was a polite, detailed, substantive
8 description of why and how nothing could be done in this
9 respect. And there are very good points of procedure, et
10 cetera, procedural fairness, et cetera, but I interpreted this
11 that if the -- there -- because it ended saying, "We don't think
12 we can do anything here and we would ask that you redirect
13 discussions to my colleague, the Solicitor General, this was a
14 very polite but firm, "No, we're not going to get involved
15 here."

16 **MR. GORDON CAMERON:** Okay. Thank you. And with
17 that response, I'll ask my colleague to pick up a new line of
18 questions, Mr. Commissioner. Stephen Armstrong, Commission
19 Counsel, will pick up for a section of questions, and then I'll
20 come back to finish.

21 **--- EXAMINATION-IN-CHIEF BY MR. STEPHEN ARMSTRONG:**

22 **MR. STEPHEN ARMSTRONG:** Good afternoon, Mr.
23 Keenan, and Mr. Dea. My name is Stephen Armstrong. I'm
24 Commission Counsel.

25 I'm going to be asking some questions about the
26 economic impact analysis from the border blockades, and my
27 questions are primarily for Mr. Dea, but Mr. Keenan, if you have
28 anything to add, please do.

1 So Mr. Dea, I understand that your directorate
2 has previous experience analyzing trade shocks? Is that
3 correct?

4 **MR. CHRISTIAN DEA:** Yes, it's correct.

5 **MR. STEPHEN ARMSTRONG:** Can you tell the
6 Commissioner about some of that experience?

7 **MR. CHRISTIAN DEA:** Yes. Well basically my group
8 is responsible to monitor and track any disruption on the
9 transportation system. And of course, you know, with what
10 happened in the previous years, in terms of the rail blockade,
11 for example, but also other events, you know, we develop
12 expertise and knowledge about, you know, how to assess these
13 different disruptions on the Canadian Transportation System, but
14 also in the Canadian economy.

15 **MR. STEPHEN ARMSTRONG:** And just in terms of
16 understanding the impact on border blockades, the Commission
17 understands from the Institutional Report that the nature of
18 trade between Canada and the United States, I guess some of the
19 features of the economy are an important background. Can you
20 describe or provide some context on that?

21 **MR. CHRISTIAN DEA:** Yes. For any kind of
22 economic impact assessment, we follow a very vigorous framework
23 to make sure that we're using the best data, but also that we
24 validate that with industry. So we always start our analysis by
25 having a good assessment of the context and what is happening.
26 And in order to do that, we use the best data available. For
27 example, in the context on the issue on the cross-border, we're
28 using Statistics Canada data to get a good sense in terms of the

1 nature of the trades that are affected at different border
2 points in terms of the magnitude, but also the type of the
3 merchandise that were affected by the reduction or the blockade
4 of the bridge.

5 We're also using other sorts of information, for
6 example, information from CBSA about daily movement at the
7 border, just to get a sense in terms of the fluidity and the
8 capacity of the movement at the different borders.

9 We were also using direct information and data
10 from the industry to get a sense from them in terms of how they
11 have been impacted and the impact for the operation overall.

12 So based on this data, we're getting a bit of a
13 portrait of what is really happening.

14 And following that, we always validate this
15 information directly with industry. So I was having, or my
16 colleagues or my group were having daily calls with the
17 different sectors affected by the blockade on the borders, in
18 order to validate, again, the data that we have, but also get a
19 better insight from them about how they have been affected and
20 what might be the implication for them in terms of production,
21 in terms of issues for investment, for example, which was also a
22 real threat for the auto sector, for example.

23 And it's ---

24 **MR. STEPHEN ARMSTRONG:** If I could jump in,
25 sorry?

26 **MR. CHRISTIAN DEA:** Yeah. Yeah.

27 **MR. STEPHEN ARMSTRONG:** Could I just ask, I
28 guess, more specifically of the ports of entry that experienced

1 blockades in February 2022, which were the most concerning from
2 an economic perspective and why?

3 **MR. CHRISTIAN DEA:** Well when you look at the
4 Ambassador Bridge, for example, this is a very significant, you
5 know, I would say corridor to exchange basically merchandise
6 between us and the United States. The magnitude is important.
7 It represents, just by itself, about 26 percent of the value of
8 the export that Canada is moving to the United States and 33
9 percent of the imports that Canada is making the U.S. is going
10 through the Ambassador Bridge.

11 So in terms of the strategic importance of this
12 bridge, it was very, very clear. It's clearly also very
13 strategic in terms of the sector affected. In the south of
14 Ontario, the auto sector, the manufacturing sector was clearly
15 affected directly and quickly, because they are all now in
16 adjusting time, you know, kind of a production schedule. So any
17 delay, or reduction, or not accessing the equipment that they
18 need in order to produce had a direct -- almost a direct impact
19 ostensibly in terms of their activities.

20 But there are other commodities that have been
21 affected as well that are important for the Canadian
22 communities, like, you know, the basic medical equipment,
23 pharmaceutical equipment, as well furniture, food. So there is
24 a lot of movement of merchandise through the bridge that clearly
25 had a direct and simultaneous impact in terms of not only the
26 manufacturing sector, but also the Canadian communities about
27 accessing some of the goods that are important for them.

28 **MR. STEPHEN ARMSTRONG:** Thanks. And I just

1 wanted to pick up on a point I think that you were just getting
2 into there, is that some of these goods that you were looking at
3 is critical goods; correct? Or something that could be deemed
4 critical goods. Can you explain to the Commissioner what are
5 critical goods? What is the significance of that?

6 **MR. CHRISTIAN DEA:** Well there's no official
7 definition of the critical goods right now, but we can probably
8 extract to and get an agreement saying that when it touches the
9 health and the food security of community, for example, these
10 are very critical to the day to day needs of the community and
11 Canadians.

12 And there is also another element of the critical
13 aspect, when it's also affecting the economic activities. And
14 again, coming back to the manufacturer sector, not having access
15 to the different equipment that was needed in order to produce
16 had a direct impact on them in terms of their capacity to
17 basically conduct their activities. So we have seen reduction
18 and stoppage of the production in the auto sector and other
19 sectors following, you know, the block at the Ambassador Bridge,
20 for example.

21 **MR. STEPHEN ARMSTRONG:** Right. But I just want
22 to tie back to the critical goods for a second. I think you
23 linked that to sort of the wellbeing -- the goods that are
24 essential for wellbeing and health. Is it fair to say that if
25 we're looking at critical goods, that imports are more important
26 than exports? Or are they equally important?

27 **MR. CHRISTIAN DEA:** You know, when you look at
28 the composition of the imports and the exports, they are both

1 very important. They are important for our colleagues in the
2 U.S. as well, because we do export some of these critical goods
3 as well, and not only for the community, but also to ensure that
4 they can, on their side also, you know, produce what they need
5 to produce in terms of sustaining the economic activities in the
6 auto sector, for example.

7 And the auto sector is a bit particular in the
8 sense that the two economies are very integrated overall in
9 terms of economic activity, but the auto sector is probably one
10 of the most integrated. And the way they manage all the supply
11 chain, it's really integrated. It's not a U.S. supply chain,
12 it's not a Canadian supply chain. It's an integrated North
13 American supply chain. So any disruption in terms of the
14 movement of what is needed on the supply chain is affecting, you
15 know, both sides of the country very, very quickly on that.

16 **MR. STEPHEN ARMSTRONG:** So Mr. Clerk, I'd like to
17 call up the Institutional Report. It's at DOJ.IR. several
18 zeros, number 5. And if we could turn to page 22, please?

19 And I guess I'm going to ask about paragraph 89
20 here. You have some figures. So this is focusing on the
21 Ambassador Bridge.

22 And am I correct in understanding that, for
23 example, where it says "agri-food" in the bullet, it's 10.7
24 percent of all exports. Is that a percent of agri-food exports
25 nationwide that are going through the Ambassador Bridge?

26 **MR. CHRISTIAN DEA:** If I remember correctly --
27 let me see.

28 Yeah, I think it's correct.

1 **MR. STEPHEN ARMSTRONG:** And that would apply to
2 pharmaceuticals and critical minerals.

3 **MR. CHRISTIAN DEA:** Exactly.

4 **MR. STEPHEN ARMSTRONG:** And so in paragraph 90,
5 you address western Canada. And in the second -- the second
6 sentence there -- I'm sorry. I shouldn't say "you". It's the
7 institutional report. But it refers to western Canada as one to
8 two percent of critical exports and imports.

9 Is it fair to say that when we're talking about
10 critical goods, is the main concern the Ambassador Bridge?

11 **MR. CHRISTIAN DEA:** Well, given the magnitude and
12 the importance of the value and the importance of these
13 commodities, yes.

14 **MR. STEPHEN ARMSTRONG:** Okay. And then on
15 paragraph 91, the report addresses the impact on automobile
16 manufacturers.

17 Can you tell the Commissioner, how did you come
18 to learn -- how did Transport Canada come to learn about the
19 impact on automobile manufacturers, and can you just expand on
20 that a bit?

21 **MR. CHRISTIAN DEA:** Yes. Again, you know, it's
22 based on, first of all, getting good data and statistics from
23 Stats Canada and other sources about the situation there.

24 But again, data is not always reflecting what is
25 really happening right now, so that's why we have different, you
26 know, engagements with the industry in order to get a sense in
27 terms of how they have been affected by the different reductions
28 of the movement at the border.

1 And we have been in contact with -- here we have
2 a short list of the key, you know, auto producer, but we have
3 had a comprehensive engagement with also other sectors as well
4 that were affected just to get a sense in terms of how the
5 different sector were affected by the blockade of the -- at the
6 border.

7 **MR. STEPHEN ARMSTRONG:** And did you consider in
8 your analysis whether these auto manufacturers could make up
9 production after the blockade's ended?

10 **MR. CHRISTIAN DEA:** Yeah. We implicitly take
11 that into consideration because I was saying at the beginning,
12 the first element is to get an assessment about the -- how the
13 movement at the border's affected, so we had a good
14 understanding based on Statistics Canada about the magnitude of
15 the export and the import and the value of that. And at the
16 bridge, it was about 390, 93 million per day that are affected
17 by the blockade there.

18 And after that, we're trying to translate that in
19 terms of how much of these movements at the border will lead to
20 a real issue in terms of economic cost and loss of economic
21 activities.

22 And in order to do that we're using, well, what
23 we think state of the art economic model in order to look at the
24 impact of a reduction of the movement of the merchandise of the
25 -- at the border and get a sense in terms of what are the
26 sectors that will be the most affected and how they will be
27 affected. And these models allow us to get a good picture, a
28 good portrait of what happened on that side.

1 And it's with these models, again, validated with
2 the industry, that we're developing a kind of a net economic
3 assessment of the impact of the blockade.

4 **MR. STEPHEN ARMSTRONG:** I'd like to paragraph 92.
5 It's on the screen already.

6 Here you address the food and beverage industry
7 and it says that it appeared likely at the time that some
8 manufacturers would have to shut down if the blockade persisted,
9 which in turn could lead to less availability of food and
10 beverage products and higher prices.

11 Can -- do you know -- how did you come to the
12 opinion that that appeared likely? What was the source of that?

13 **MR. CHRISTIAN DEA:** Well, this -- well, there's
14 three elements to consider here.

15 First of all, it was during the winter. It's
16 always more of a challenge to move perishable, you know,
17 products during the winter so you have to work in a window that,
18 you know, it's already really more narrow. And after that, we
19 had a good information that in terms of how much these
20 industries on both sides of the border were affected.

21 And of course, for them it's real time. You
22 know, if you're not taking the fruits, vegetables, the flours,
23 the other, you know, perishable goods and even if there's a
24 delay of one day or two, it means that they are losing basically
25 some of the business or their business on that side.

26 So they were very, very concerned about, you
27 know, not having predictability on their side about when they
28 can move their products and where. And again, even a delay in

1 terms of the transportation on either side were not only adding
2 costs, it was sometimes, you know, causing a problem of not
3 being in a situation of delivering their products to their
4 client.

5 **MR. STEPHEN ARMSTRONG:** How did you come to
6 understand that that occurred?

7 **MR. CHRISTIAN DEA:** Well, it's through, you know,
8 conversation we have had with different, you know, shippers on
9 that front in order to get an appreciation of the challenges
10 that they were facing.

11 **MR. STEPHEN ARMSTRONG:** Mr. Clerk, can we please
12 go to page 23 of the report, the next page.

13 There's a chart in the middle of the page.

14 We can scroll up or down if you want the context,
15 but Mr. Dea, could you walk us through this chart, briefly?

16 **MR. CHRISTIAN DEA:** Yes. This is basically a
17 table summarizing what I just mentioned, so we're, of course,
18 monitoring the situation at the different border crossings in
19 terms of what is happening there. And using, you know,
20 Statistics Canada trade data, we had basically statistics about
21 the value of the import and the import that was affected for
22 specific days. And this table is just trying to provide --
23 again, contextualize in terms of the value of the exports and
24 the imports that were affected by the different blockades in the
25 different border crossing.

26 **MR. STEPHEN ARMSTRONG:** So trade -- sorry to
27 interrupt.

28 So just to get clarity on some of the terms, I

1 guess -- and I know they're -- I think they're explained in the
2 paragraphs above, but trade per day, that includes imports and
3 exports; correct?

4 **MR. CHRISTIAN DEA:** Exactly.

5 **MR. STEPHEN ARMSTRONG:** And what is -- what is
6 "trade impact"? What is that figure ultimately showing us?

7 **MR. CHRISTIAN DEA:** Well, the trade impact is
8 basically looking at the trade per day that are affected times
9 the number of days of the blockade. So this is giving you a bit
10 of an estimate of the value of the exports and imports that are
11 affected or have been affected by the blockade in different
12 border crossings.

13 **MR. STEPHEN ARMSTRONG:** Right. But it doesn't
14 purport to be the cost to the Canadian economy; correct? It's -
15 --

16 **MR. CHRISTIAN DEA:** No. No, this is -- again,
17 we're starting to get a sense in terms of what is affected first
18 and in order to derive the net economic cost, we're going
19 through this validation process and through economic modelling,
20 we can generate basically the loss of economic activities that
21 were associated with the blockade at the different border
22 crossings.

23 **MR. STEPHEN ARMSTRONG:** Okay. And then at
24 paragraph 97 here, we have a figure that says that the total
25 number of trucks entering or returning to Canada from the United
26 States was down five percent in February 2022 relative to the
27 same period in 2021.

28 Are you able to say what the cause of that five

1 percent reduction was, what was the cause?

2 **MR. CHRISTIAN DEA:** Well, the numbers here refer
3 for the full amount, but given the data that we're getting on a
4 daily basis from CBSA, we were in a position to look at, you
5 know, the impact of the blockades at the different border
6 crossing points.

7 And I think my colleague on CBSA this morning
8 presented some of these tables where you're showing a
9 significant reduction, if not, you know, a total closure of the
10 traffic in the different border crossings.

11 So we were -- we were in position with this
12 information and the validation with industry to get a good sense
13 in terms of what was really stopped or reduced at the border
14 crossings in terms of traffic.

15 **MR. STEPHEN ARMSTRONG:** Are there any other
16 factors that would impact, if you just looked year over year
17 from 2021 to 2022, that would impact the flows?

18 **MR. CHRISTIAN DEA:** Of course we were -- at that
19 time we were in an environment that was under stress, I would
20 say, economically. And for the transportation sector with the
21 COVID situation, there were some challenges in term of the
22 global supply chain and the domestic supply chain. But, you
23 know, looking at historical average was giving us a bit of a
24 benchmark. So -- and usually when you're doing this kind of
25 analysis, you're using different benchmark just to ensure that,
26 you know, your assessment is robust enough. And here in the
27 paragraph we're referring to the previous year, but we use, you
28 know, different time period just to make sure that, you know,

1 our benchmark was robust enough to get a sense about the impact
2 of the blockade of the bridge.

3 **MR. STEPHEN ARMSTRONG:** And do you know how much
4 of the 5 percent, do you know how much that represents critical
5 goods flowing across? Was that impacted?

6 **MR. CHRISTIAN DEA:** I don't have this information
7 with me, but you can assume that, you know, depending of the
8 composition of the -- you know, the movement of the trucking,
9 that probably most of the commodity that I have highlighted at
10 the beginning were affected. How much, it's very -- we don't
11 have this information.

12 **MR. STEPHEN ARMSTRONG:** And at paragraph 98, the
13 report notes that a reduction in traffic was observed in Western
14 Canada, and the number of trucks entering or returning to Canada
15 decreased by 48 percent at Coutts and 29 percent at Emerson. Do
16 you have the information for whether there were corresponding
17 increases at the other nearby ports of entry in Alberta and
18 Manitoba?

19 **MR. CHRISTIAN DEA:** Well, in our analysis, and
20 using, again, daily information from our colleague on CBSA about
21 the movement on the different crossing border, we were in a
22 position to see if the traffic were redirect, at least partly,
23 to other border crossing.

24 **MR. STEPHEN ARMSTRONG:** And was it?

25 **MR. CHRISTIAN DEA:** And in some part, yeah, the
26 traffic has been redirected to other border crossing point, but
27 it's -- it was never a perfect, you know, rerouting of the
28 traffic from one bridge or one areas to the others; they were

1 always a net cost or a net loss of traffic. And there were
2 also, even though if the traffic was rerouted, there were some
3 cost issues in term of adding time, adding cost, adding capacity
4 in another area, and causing problem in terms of the just-in-
5 time kind of production in the different sector that were
6 affected.

7 And depending of the region, on the -- I focus a
8 lot on the manufacturing sector, giving the south of the Ontario
9 challenges, but on the western side, their focus was more on,
10 you know, live animal products, agrifood products, for example,
11 or mining. And, again, there were some specific problematic
12 there as well in terms of a -- you know, not being in a position
13 to timely deliver these products to the different markets.

14 **MR. STEPHEN ARMSTRONG:** Okay.

15 Mr. Clerk, I'd like to go to the next page,
16 please?

17 So it sort of ends the economic impact section
18 here of the report, saying, it's clear that there has been a
19 impact; however, it's hard to attribute the shifts noted above
20 solely to the impact of the blockades.

21 Can you tell the Commissioner, I guess, some of
22 the challenges in making that assessment, and why that's not
23 possible?

24 **MR. CHRISTIAN DEA:** Well, what was possible to do
25 first is to -- given the shock, and we had good information
26 about the value of these export and import that are affected,
27 that were affected by the different blockade.

28 It was relatively straightforward to translate

1 that through modelling and validation, in term of net economic
2 cost for the different region. We have done the analysis for
3 the Ambassador Bridge, for example, and we come with an estimate
4 of the net economic cost.

5 In term of the attribution of the overall other
6 factor that is happening, that's where it was getting difficult
7 for us to assess the role of vaccination, COVID, global supply
8 chain challenges, and/or challenges in term of, you know,
9 shortages of workers due to COVID or other, you know, issues.

10 It's really difficult to make an assessment about
11 the exact contribution of each of these factor when you're doing
12 a global and a macroeconomic impact assessment.

13 **MR. STEPHEN ARMSTRONG:** And if that's the case,
14 then how can it be clear that the blockades have an impact?

15 **MR. CHRISTIAN DEA:** Well, because, you know, for
16 the reasons that I just mentioned; we were in a position, in the
17 context of the blockade, to know exactly what was affected, in
18 term of the traffic of the merchandise on the exportation and
19 the importation. So that was -- it was clear about, you know,
20 the sector affected, so we can use, basically, and we have used
21 this information through our modelling to see how the Canadian
22 economy and the regional economy and the sectoral economy were
23 affected by the reduction, for example, of the traffic on the
24 Ambassador Bridge. And that was a clear, you know, assessment
25 of the impact of the reduction of the importation and the
26 exportation at the Ambassador Bridge.

27 So for this one it's really clear. It's when
28 you're trying after that to look and get, I would say, a kind of

1 And we were in a position to highlight that about 390 million of
2 trade daily were affected, which again represent 26 percent of
3 the export of the country to the US, and 33 percent of the
4 merchandise imported from the US by road.

5 So we were looking at data now, and the next
6 bullet, the next point was to say, "Okay, how this translate
7 into economic loss in Canada?" In order to do so, we have used,
8 you know, a modelling that we have right now in our group, and
9 this model are state of the art model; they are giving you a
10 snapshot based on Statistics Canada of the whole economic
11 structure in Canada, giving you the detail by sector, so --
12 which allow us to look at, you know, not only at the macro level
13 but at the very sectoral level and regional level, the nature of
14 the impact of the reduction of the import and exported order.

15 **MR. STEPHEN ARMSTRONG:** Okay. So ---

16 **MR. CHRISTIAN DEA:** And when we do that we got --
17 we got an estimate of about 45 million of economic loss per day.
18 But we were using -- giving, you know, that they are modelling
19 tools, giving some uncertainty about how the different sector
20 might have been affected at the beginning of the reduction of
21 the activities. In order to bring a bit more certainty about
22 the magnitude of the impact, we wanted the strategist to the
23 right scenario. And the second bullet there present three
24 different scenarios of all the reduction of the trade at the
25 border impact the economy. The first one, assuming that the
26 main factors affected will be transportation sector and the
27 manufacturing sector, and more precisely, the auto sector. And
28 again, this was informed partly by also the conversation we were

1 having in -- with industry. And when you will look at, you
2 know, this impact, the modelling is giving you an estimate of
3 about 45 million of net economic loss, which means that the
4 industry are producing less or stopping their production. It
5 means that they are losing income and salaries. And this is
6 less expenditure in the economy, less economic activities, and
7 the 45 million there is capturing the direct impact of the
8 reduction of the trade on the transportation and the auto
9 sector.

10 The other element were more to explore, you know,
11 assuming that other sector might have been also affected by the
12 reduction of the trade activities at the border. The 86 million
13 refer to a scenario where it was not only the transportation and
14 the auto sector; it was the full manufacturing sector in the
15 south of Ontario that was affected, and then the estimate then
16 rise from 45 million to 86 million a day.

17 And the last one, which is more, kind of an
18 extreme case for us, is to look at, okay, what is happening if
19 all the sector are instantaneously affected by the reduction of
20 the export and import at the border, and then you're getting
21 this estimate of 161 million.

22 **MR. STEPHEN ARMSTRONG:** And can I ask, what kind
23 of assumptions went into the \$45 million a day scenario?

24 **MR. CHRISTIAN DEA:** The 45 million scenario is
25 assuming that, again, looking at what is the traffic at the
26 border that is affected. So we're shocking, basically, the
27 economy saying -- if we're saying these export and import are
28 affected, what will be the impact for the transportation and the

1 auto sector first. And that's where you're getting the 45
2 million estimate.

3 **MR. STEPHEN ARMSTRONG:** And there's a reference
4 in the -- when you're describing in the Key Messages the \$45
5 million a day scenario says:

6 "..."\$45M/day over the first week based
7 on current mitigation efforts put in
8 place by shippers and available
9 alternative options."

10 What assumptions were you making about mitigation
11 efforts for that scenario?

12 **MR. CHRISTIAN DEA:** Well, we're assuming -- given
13 that we're assuming that the others -- the -- only the
14 transportation and the auto sector were affected, we're assuming
15 that all the other sector of the economy; the food sector, the
16 resource sector, the furniture sector, for example, they find a
17 ways to get access to the material that they need to maintain
18 their economic activities. And through -- by redirecting some
19 of their, you know, traffic, or their import and export from
20 trucking to rail or other mode, for example, or they were in a
21 position to have and sustain economic activities because they
22 had some inventories to allow them to do so.

23 So that's why the 45 million for us was a kind of
24 a conservative estimate of the impact because we're assuming
25 that more or less all the other economic sector find ways to
26 continue to produce, to continue to operate with minimal
27 disturbance.

28 **MR. STEPHEN ARMSTRONG:** Okay.

1 Mr. Clerk, I'd like to go to another document,
2 it's SSM.CAN.00003798. And if you could go to the bottom, it's
3 an email chain.

4 Okay. So Mr. Dea, I don't have any questions
5 about this first email, but I just would pause on it to let you
6 refresh your memory. Okay. And can we scroll up to the next
7 email?

8 So here, Mr. Dea, you've responded to Ms.
9 Turcotte on February 10th, on economic impacts of the blockades
10 at border crossings.

11 And Mr. Clerk, could you scroll down?

12 And so in these three scenarios you outline here
13 trade shock 1, 2, and 3. Do these correspond to the scenarios
14 that we were just talking about?

15 **MR. CHRISTIAN DEA:** Yes.

16 **MR. STEPHEN ARMSTRONG:** So this is about the
17 Ambassador Bridge.

18 **MR. CHRISTIAN DEA:** Exactly.

19 **MR. STEPHEN ARMSTRONG:** And Mr. Clerk, could we
20 scroll up again?

21 And so Ms. Turcotte responds to your email and
22 she had some questions for you. Well, first she says:

23 "At first glance, impacts seem large to
24 us, especially scenarios 2-3, implying
25 limited diversion options and high
26 sensitivity to any delays."

27 Do you have any response to that comment?

28 **MR. CHRISTIAN DEA:** Yes, we do -- first of all,

1 we have to acknowledge that when we're doing this kind of
2 analysis, there's a lot of exchange with other department as
3 well, just to, again, validate if they have any information that
4 we don't have access to. But also making sure that we
5 collectively play this challenge function together in order to
6 make sure that we're getting the best advice to our respective
7 Minister. And there have been exchange throughout this process
8 with the Department of Finance, at different level, at my level
9 and at the working group level as well, in order to make sure
10 that their assessment, the way they are conducting their
11 assessment, to get a sense in term of if they can share any of
12 their insight was. And we're sharing a bit of their insight.

13 On their side, they are using more -- it is my
14 understanding that they are using more macroeconomic, you know,
15 modelling tool to derive impact. And on our side, we're using
16 other set of tools that is giving us a lot more sectoral details
17 about the nature of the shock and how the different sector are
18 affected.

19 So we always, in that regard, trying to
20 collaborate, and collaborate effectively, to make sure that what
21 were coming, in term of economic assessment, were consistent in
22 the way to move forward. And if they were some question about,
23 you know, some of the result from the different tools that we're
24 using, we're trying to get a good assessment together about how
25 can we explain the difference between the two.

26 But in the context of the work with the
27 Department of Finance, they have used our assumption about the
28 trade impact or the shock in their model. And they were

1 shocking the economy using their macroeconomic tool, and they
2 got some result; and, on our side, we're doing the same. And
3 this email is in that context; to exchange information about,
4 you know, the preliminary estimate of the impact from their side
5 and our side.

6 So we had agreement, or were very consistent in
7 term of the way to get to the first element of this -- the
8 impact, which is referring to the scenario 1, at 45 million per
9 day. But they were questioning, in term of how far and solid
10 are -- were the other scenario that we were doing. And we --
11 the email was just to exchange and provide them with more
12 information about what we're trying to capture in scenario 2 and
13 scenario 3, in term of the sector affected but also the dynamic
14 aspect of the shock on the trade in the Ontario economy.

15 **MR. STEPHEN ARMSTRONG:** And so she had a number
16 of questions for you. I'm -- I think mostly just looking to
17 highlight the first one, she asked:

18 "What do you assume in terms of % of
19 [impact] shipments that are able to
20 divert to other crossings (e.g.,
21 Sarnia/Niagara land crossings; rail
22 [and] air)?"

23 And Mr. Clerk, if we could go up to the next
24 email, I believe Mr. Dea, you've responded. If we could go up
25 to the next page as well; this is the beginning of your email.
26 Well let's find the -- yeah, so this is Mr. Dea's response on
27 February 11th. If we could scroll down a bit.

28 Here we see some of the information from the

1 backgrounder that we just looked at. If we could scroll back
2 down to the other page.

3 So my understanding, Mr. Dea, if you recall this
4 email, is that the questions are in the bullet points, and your
5 response is below in a different sort of colour; is that right?

6 **MR. CHRISTIAN DEA:** Yes.

7 **MR. STEPHEN ARMSTRONG:** And so your response to
8 the question about your assumption on diversion, it looks like
9 you said, "Our scenarios do not consider any diversions to other
10 crossings." Is that correct?

11 **MR. CHRISTIAN DEA:** We -- the shock are assuming
12 that it's a pure shock for the sector, but that's why we're also
13 looking at them coming to that in the different response later
14 in term of how can we, you know, capture the dynamic element
15 associated with the rerouting as well. And that's why we were
16 using every day, you know, the information that were coming from
17 CBSA about, you know, the movement of the traffic, or the
18 perceived movement of the traffic to other bridge to get an
19 appreciation about, okay, if, you know, our shock was still
20 reflecting what was happening on that side.

21 **MR. STEPHEN ARMSTRONG:** Okay. And so does your
22 comment about the scenarios not considering diversion, does that
23 apply to scenario 1 as well, the \$45 million a day?

24 **MR. CHRISTIAN DEA:** The scenario one does not
25 consider any redirection of the traffic at the day of the shock
26 and on that front, yeah.

27 **MR. STEPHEN ARMSTRONG:** Sorry, I'd like you to
28 clarify on that. So does that mean there's no diversion on just

1 day one of the one-week closure, or any of the seven days of the
2 week?

3 **MR. CHRISTIAN DEA:** Well, implicitly, you know,
4 the short answer to your question is that the model is already
5 capturing the potential substitution of the rerouting to a
6 certain level. And this was already embedded in the modelling
7 that we had have, because we can't see in term of how economy
8 needs to be moved, and it was moved in the past. And all the
9 past behaviour was captured that -- there in term of the way to
10 get access to these element. And they have been shocked in the
11 past as well. That was affected also some of the manufacturing
12 sector that will giving us some benchmark about the dynamic
13 element of the rerouting.

14 What the model was not capturing though is the
15 day-to-day change that we were seeing with some redirection of
16 the traffic from Ambassador Bridge to the other bridge. And the
17 model was not allowing us to capture also the cost associated
18 with this rerouting, because rerouting doesn't mean that, you
19 know, it's basically reducing the overall cost, the net economic
20 impact. It might be a bit of a reduction associated to that,
21 but there is also cost associated with rerouting about time,
22 additional cost, loss of economic opportunities and we mentioned
23 previously the perishable good, the food sector, where
24 basically, you know, delay means for them that they are losing
25 economic production and activity.

26 So in order to fully capture that, we had to
27 basically play a little bit more with the model or qualify a bit
28 more the result of the model to see how we can take that into

1 consideration.

2 **MR. STEPHEN ARMSTRONG:** And ---

3 **DM MICHAEL KEENAN:** If I could add in?

4 **MR. STEPHEN ARMSTRONG:** Yeah.

5 **DM MICHAEL KEENAN:** Christian, I think -- tell me
6 if this is right that there's a number of real-world kind of
7 challenges that some sectors had in diverting to other bridges
8 that the model, for all its sophistication, couldn't fully
9 capture. One of them is in the auto sector. It's a just in
10 time system where sometimes a truck is really geared to make two
11 round trips in a day. And then with this diversion, they can
12 only make one round trip or half a round trip. And so that --
13 because it's so time sensitive and so synchronized, and that's
14 one of many crossings, it's hard to have that in the model.

15 The second is that one of the -- we came to this
16 issue at Transport, which is the hours of service limit, because
17 for safety reasons, truckers are limited on how many duty hours
18 they can have before they have to stop and rest. And that their
19 -- the trips under normal conditions are synchronized around the
20 duty hour requirements. When they have a, like, a 4-hour
21 diversion and a 10-hour wait, they kind of -- they time out and
22 then they have to pull over for the safety rules.

23 There was some discussion of a temporary waiver
24 of those, which we do at occasion, so those kind of costs are
25 material. And I don't know -- I assume the model in its
26 sophistication can't fully capture all of that. Yeah.

27 **MR. CHRISTIAN DEA:** Yeah.

28 **MR. STEPHEN ARMSTRONG:** So, Mr. Clerk, could we

1 go up to the first part of Mr. Dea's response? Yeah, you can
2 pause right here. So at the bottom of the screen, I just --
3 there's this -- looks like you got some data here on diversion.
4 And so I'm just -- I would ask you some questions about that.
5 Where did you get this information from?

6 **MR. CHRISTIAN DEA:** That's the daily data that
7 we're getting from CBSA.

8 **MR. STEPHEN ARMSTRONG:** And so were you able to
9 factor that into your scenario one, or is that not factored in?

10 **MR. CHRISTIAN DEA:** This was not fully factored
11 in the scenario.

12 But the reason why we use the scenario one was
13 precisely for that reason. We haven't shocked all the sector of
14 the economy. And implicitly, by doing that, we're trying to
15 take into consideration that there will be some rerouting, and
16 it's not all the sectors that won't have access to all the
17 equipment that they were looking for. So that's why we're
18 quite, you know, prudent with the scenario one. We're saying
19 the sector that has been affected, it's mainly transportation
20 sector and the auto sector. All the others, you know, were
21 continuing basically to produce business as usual almost. And
22 this is the attempt to try to capture that, to say that, you
23 know, all the others will find ways to get access to their
24 input, their equipment, to continue the production. So we did
25 explicitly use these number, but the fact of restricting the
26 shock to the transportation sector and the auto sector was more
27 or less to capture these element that, you know, a lot of the
28 other sector will be in a position to access, maybe not on a

1 timely basis, but access what they need to continue to produce.

2 **MR. STEPHEN ARMSTRONG:** Mr. Clerk, can we scroll
3 up to the next email in the chain?

4 So, Mr. Dea, I think you're not on the chain
5 anymore, but I wanted to get your response because finance
6 officials continue to comment on the scenarios. And in the
7 first bubble, they say,

8 "Based on description scenarios 2 and
9 3, I'm not sure we should include these
10 [...], especially given that [the]
11 Ambassador['s] open again."

12 And then in bullet two, they say,

13 "Scenario 1 seems like a reasonable
14 upper-bound for the daily cost [...].

15 They could easily get there, and they see it as
16 an upper bound. Do you have any comment on that point, or
17 anything to add?

18 **MR. CHRISTIAN DEA:** Well, you have to refer that
19 the date of this email as well. We're talking about ---

20 **MR. STEPHEN ARMSTRONG:** Sure.

21 **MR. CHRISTIAN DEA:** --- February 14, so we
22 weren't -- you know, we have started to do these estimate at the
23 beginning of the blockade, so in early February when we're
24 starting to see some issues in term of the blockade, we were
25 starting this estimate, not knowing exactly what kind of
26 rerouting would happen and how it will happen. And I think this
27 email was on the February 14 because ---

28 **MR. STEPHEN ARMSTRONG:** Mr. Clerk, could we

1 scroll up and see the date?

2 **MR. CHRISTIAN DEA:** Yeah.

3 **MR. STEPHEN ARMSTRONG:** Right.

4 **MR. CHRISTIAN DEA:** Yeah.

5 **MR. STEPHEN ARMSTRONG:** February 14th.

6 **MR. CHRISTIAN DEA:** And it was exchanged within
7 the Department of Finance between the analysts there. We had a
8 lot more information at that time about, you know, what happened
9 over the past few days in term of rerouting, and that's where
10 they were focussing a bit their element, saying, maybe now the
11 scenario two and three, giving what we know right now, were
12 probably a bit more on the high side in the way to look at the
13 economic impact of the situation. And they were more in line
14 with us with, you know, the scenario one as a prudent and a
15 conservative estimate of the -- to assess the net economic
16 impact on that regards.

17 **MR. STEPHEN ARMSTRONG:** And at the end of the
18 second bullet, I just want to get your comment on the remark
19 that,

20 "The costs are also probably mostly
21 transient with catch-up production
22 expected [in] the coming weeks."

23 Do you have any response to that?

24 **MR. CHRISTIAN DEA:** Well, again, it's -- we were
25 all trying to infer maybe some behaviour in term of the economy
26 there. I think on the February 14, we had a bit more better
27 understanding about, you know, the nature, the magnitude of the
28 shock and the return to that. And I think there -- this

1 exchange there was more or less to capture now or better reflect
2 this information. But again, it was more to say that giving
3 what we know right now and giving the current situation on
4 February 14, maybe a scenario 2 and 3s were more on the upper
5 bound of economic impact.

6 **DM MICHAEL KEENAN:** Could I -- if it's helpful,
7 could I add a point here because the -- first of all, in -- what
8 you're seeing is an exchange between Finance and the Department
9 of Economic Analysis, which is very typical. I've been involved
10 in that in three or four different departments.

11 But there's -- on this issue, I think there's an
12 important point around this issue of transient that I think is
13 an important context. And this is a good discussion to put this
14 impact in context.

15 In one sense, there's a transient and once the
16 bridge opens, the shock wears off and the economy adjusts and
17 gets back -- gets back going. There's two aspects that are not
18 transient. One is that there was some period -- and because the
19 thing was closed for six days, it wasn't that long, but there
20 were a number of days and shifts where billion-dollar plants
21 were idled and you don't actually ever regain that. If you shut
22 down a billion-dollar plant for a day, that's a loss of
23 production that you don't actually ever truly get back.

24 The -- but if you looked in paragraph 91 on the
25 institutional report -- you don't have to show it -- but it
26 listed the impacts on the auto manufacturing plants in Ontario
27 and it went through like Honda, GM in Oshawa and these different
28 places in Ontario.

1 What it was -- what it didn't say because it
2 wasn't a Canadian economic impact, is the same thing was
3 happening in the U.S. and there were auto plants as far south as
4 Kentucky that were disrupted because they couldn't get the parts
5 across the Ambassador Bridge they needed for their production.

6 And that created an economic impact that was --
7 could have been quite devastating and permanent, and that is the
8 loss of confidence that Canada's a reliable trade partner. And
9 that -- a loss of confidence that a production -- in U.S.
10 boardrooms and U.S. state and national capitals that a
11 production system that cut -- that went across the border wasn't
12 reliable and you should consolidate in the U.S.

13 And so there was an immediate extremely high
14 level of anxiety out of the boardrooms of the automakers. Out
15 of Michigan, the Governor of Michigan -- calls were coming in
16 from Washington. I was getting calls from my counterpart
17 immediately, "What's up? Can we help?".

18 And because there had been a significant
19 disruption two years ago with rail blockades, there was a
20 growing -- we were seeing a growing sense of that, a question as
21 to whether Canada was a reliable trade partner and whether its -
22 - these trade corridors would stay open.

23 That's really important because that affects
24 investment decisions. And there was -- there was a high level
25 of concern at Transport, at Finance and at GAC that this was
26 having an adverse effect on investment decisions in boardrooms
27 of U.S. companies and, in particular at the worst possible time
28 because there were a number of major decisions pending on

1 production mandates and investments in auto plants in Ontario.
2 And they typically weigh competing locations.

3 And this bridge outage, particularly if it's
4 extended, could actually tip the balance in Canada's disfavour,
5 and so billion dollar investments that would have otherwise
6 happened in Ontario were going to happen in Ohio or Kentucky or
7 Michigan.

8 That was a -- I would say an extremely high level
9 of concern, and that if this had gone on longer -- if it had
10 restarted, the risk of that happening was quite high.

11 In the end, I think the consensus was it was a
12 near miss. While it was a problem and there was a lot of
13 anxiety, we were still -- Canada was still able to land a number
14 of billion-dollar investment decisions by automakers like Stel
15 Lantos, Honda, GM in the following months. All made billion-
16 dollar investment decisions in Ontario. If this had gone on
17 longer, if it had been repeated, then any one of those could
18 have been easily unwound because a big decision like that is not
19 final until it's final and boardrooms are always assessing those
20 kind of risks.

21 So that is a major, I would say, strategic
22 economic risk that -- and represents economic harm to the
23 country that comes in the future that is quite material to the
24 national interest, but by the -- but as sophisticated as these
25 models are, either the Transport one or the Finance one, there's
26 no way to -- there's no way to include them in the models.

27 So my assessment would be the economic cost is,
28 say, different versions of around \$50 million a day and

1 potentially much higher if this disruption undermines and
2 reverses some future investment decisions in Canada.

3 **MR. STEPHEN ARMSTRONG:** And if I could just
4 follow up on that with one question, the concerns you outlined,
5 Mr. Keenan, about the automotive industry and about Canada's
6 reputation and attracting investment, was that more top of mind
7 than the importation of critical goods?

8 What was most important in your mind at that
9 time?

10 **DM MICHAEL KEENAN:** I think both were really
11 important.

12 The importation of critical goods is a here and
13 now problem that puts the health and safety of Canadians at
14 risk. And the investment confidence is a future economic
15 prospects issue that puts future really good, high-paying jobs
16 at risk. And both of them are important.

17 **MR. STEPHEN ARMSTRONG:** Thank you. Those are my
18 questions.

19 My colleague, Mr. Cameron, has some more.

20 **MR. GORDON CAMERON:** Thank you, Mr. Chairman.
21 I've been told I've got 30 minutes left, and I think I can
22 probably eliminate some material and get this done in that time.

23 And for those of you who've been following the
24 last hour or so, I can point out that tomorrow the Finance panel
25 comes on and we'll have another perspective on the similar
26 analysis about the impacts of that. So in the spirit of if you
27 liked this, you might like that.

28 **--- EXAMINATION IN-CHIEF BY MR. GORDON CAMERON (cont'd):**

1 **MR. GORDON CAMERON:** Gentlemen, if I can take you
2 back to the narrative of the development of the federal
3 government's response to the convoy, we were just talking about
4 the letter from Ontario saying that they weren't enthusiastic
5 about the enforcement strategy for the reasons articulated in
6 that letter.

7 I'd like to pick up now where things went from
8 there beginning with a question to you, Mr. Keenan.

9 Did you brief that letter up to Minister
10 Alhabra?

11 **DM MICHAEL KEENAN:** Yes. I think you could see
12 from the email chain I briefed that letter to key federal
13 colleagues almost immediately, and I briefed that letter up to
14 Minister Alhabra probably even before then.

15 **MR. GORDON CAMERON:** And did you have discussions
16 with him or give him feedback on what you thought the
17 implications of that letter were for the development of your
18 enforcement strategy?

19 **DM MICHAEL KEENAN:** Yes.

20 **MR. GORDON CAMERON:** And can you give us a few
21 minutes on that?

22 **DM MICHAEL KEENAN:** The -- I think I
23 characterized the letter as disappointing. Ontario's pulling
24 back and this narrows the -- this narrows the tools available
25 for the strategic enforcement strategy, but we will continue
26 working with them and others to try and flesh it out.

27 **MR. GORDON CAMERON:** Now, leading up from the
28 time of the letter towards invocation on the 14th, what was

1 Transport Canada's role in developing the government's thinking
2 on the potential use of the *Emergencies Act*?

3 **DM MICHAEL KEENAN:** Our first role was working
4 up the strategic enforcement strategy and the tow truck
5 strategy, which we've discussed. Second key one was assessing
6 the scope of the adverse economic impact that was unfolding
7 starting February 7th because of the accumulation of the border
8 blockades.

9 And then -- so over that course of sort of 7th
10 through to the 10th and into the weekend of the 12th and 13th,
11 we were continuing to advance those strategies as -- essentially
12 as the index Track 1 approach.

13 Somewhere around the 10th to the -- and through
14 into the 12th and 13th, we put our minds to options for
15 increasing authorities under a Track 2 *Emergencies Act* approach
16 and had produced a couple of background pieces where the experts
17 in safety and security with the different -- and aviation, road,
18 marine, et cetera, rail were explaining, well, what could we do
19 with our existing authorities and where could there potentially
20 be a new authority that might be helpful? And those were
21 assembled into some tables of background analysis.

22 **MR. GORDON CAMERON:** And tell me, as you're doing
23 this thinking on February 11th, Ontario adopted its emergency
24 measures. And how did that emergency measures, and how did that
25 have an impact on your thinking about, first of all, how you
26 viewed the Ontario measures, how they might have counterparts in
27 other provinces or federally?

28 **DM MICHAEL KEENAN:** First and foremost, the -- we

1 got the news on the 10th that Ontario was contemplating or was
2 about to issue an emergency declaration, and then I think on the
3 11th we saw the orders that -- and we understood that on the
4 11th that it would include things like an ability to suspend the
5 CVOR, the commercial operating certificate, of a truck that's
6 involved in an illegal activity. And so through that evening of
7 the 10th and the 11th, we took that as a very welcomed
8 development. It was clear that Ontario had executed a major
9 pivot and had -- and that the February 8th letter to me saying,
10 "there's nothing we can do" had been replaced with a decision to
11 do something material and significant.

12 And that was a welcome development that
13 contributed to -- in a material way to the strategic enforcement
14 strategy.

15 **MR. GORDON CAMERON:** And did you -- did that
16 prompt you to either think about or perhaps even encourage other
17 provinces to consider similar measures that they might be able
18 to take in their jurisdictions?

19 **DM MICHAEL KEENAN:** Yes. In fact, the -- there
20 was a -- almost an evergreen draft of the strategic enforcement
21 strategy that would evolve through discussions with provincial
22 colleagues, it would evolve through developments, and we began
23 explicitly citing the *Ontario Emergencies and Civil Protection*
24 *Act* measures, and in particular, the -- some of the elements of
25 that that were relevant to the transportation enforcement
26 strategy, like the ability to suspend CVORs. And I remember
27 making the comment that Ontario is stepping up and taking some
28 action, and the extent to which other provinces can take similar

1 action will strengthen this strategy.

2 **MR. GORDON CAMERON:** Now, the next point I'd like
3 to bring to your attention as we're following this chronology,
4 the -- there was an email thread on about February 10th.

5 And Mr. Clerk, if you could call up
6 SSM.CAN.00000374.

7 This is the email thread started by the Deputy
8 Clerk, Ms. Drouin. And again, this is a document that's
9 received some attention already in the hearing. We don't need
10 to go into it line by line, but you might remember this as the
11 enquiry by Maître Drouin as to whether or not there is an
12 opportunity for this concept of a trade corridor that might
13 assist in giving federal jurisdiction that could prevent
14 obstructions at border crossings. Do you remember that?

15 **DM MICHAEL KEENAN:** I do.

16 **MR. GORDON CAMERON:** And if we could just scroll
17 down in the email a bit. And if we can start by going to the
18 bottom just so we can see the actual proposal. There we are.

19 I'll read it out:

20 "As you know we are looking at
21 different options to get jurisdiction.
22 One of the questions I received is:
23 Can we declare the region of the
24 Ambassador Bridge a trade corridor and
25 then get jurisdiction?"

26 And then if you -- you received that and
27 considered it, and we'll now look at your response, Mr. Keenan.
28 So Clerk, if you could scroll up again. Further,

1 please, to Mr. Keenan's thoughts. Okay.

2 Now, you have a number of points that you mention
3 in here. It's a four-part answer, and because we've only got a
4 little bit of time, perhaps you could just give it to us in
5 bullet points, and then I'm going to ask you to talk in some
6 detail about this. But if you can just give us the quick
7 overview of your thoughts about the trade corridor idea.

8 **DM MICHAEL KEENAN:** And the context was -- of
9 this was both the question from the deputy clerk as well as I
10 think a public comment that the Ontario Minister of Transport
11 had made I think the day before after the letter came that the
12 problem at the Ambassador Bridge was a border crossing, it's
13 federal jurisdiction, so were looking to the -- what -- for the
14 federal government to solve it. And it was a combination of
15 those two things that I think led to the deputy clerk's
16 question.

17 And so the four -- the key points are raised,
18 because we had looked at this, and the first is that there is no
19 in statute in law, as of today there is no trade corridor or
20 federal authority. So that -- it's that simple.

21 There is -- second of all, I think the second
22 point is that there are -- there is legislation that governs and
23 protects the point of the crossing, and the two of them are the
24 *Customs Act*, the CBSA authorities under the *Customs Act*, and
25 Transport administers the *International Bridges and Tunnels Act*.
26 And so there was a lot -- there were suggestion we should go use
27 this *Act* to solve that problem.

28 And we looked at that, but the *Act* gives the

1 Minister of Transport some very significant authorities, but the
2 geographic scope of those authorities is the actual federal
3 infrastructure itself. So if the protesters had set up in the
4 middle of the bridge and were blockading from the middle of the
5 bridge, then that *Act* would be of some potential use, but
6 because they were on the...

7 The third point is because they're on the city
8 streets of Windsor, the -- these federal acts have no scope
9 covering the city streets of Windsor.

10 And that the remainder of it was making the point
11 that Ontario sort of backed away, either on the basis that they
12 think this can be left to the federal government and its
13 jurisdiction. But we needed to make it clear that that doesn't
14 work, and that if they -- the only feasible way that they have
15 to do something and -- because the streets of Windsor are under
16 the jurisdiction of the municipal authorities of Windsor and the
17 provincial government. And if they really truly want us to
18 solve this the only way to do that is to declare an emergency
19 and ask us to intervene through our *Emergencies Act*.

20 That would be a very provocative approach, and it
21 may succeed in having Ontario come back to the table and start
22 kind working using their authorities to solve the problem.

23 **MR. GORDON CAMERON:** Okay. If we could,
24 Mr. Clerk, just scroll back up to the point.

25 First of all...

26 Down, please.

27 So the -- your first point is there is no such
28 thing as a trade corridor. I think we get that. The second

1 point you described to us as being there are authorities but
2 they don't work in this context because they only cover the --
3 you're thinking of only cover the actual facility itself. And
4 the third one intrigues the reader because you say:

5 "The Ontario Ministry of Transportation
6 [continues] to suggest the feds have
7 full authority to manage international
8 crossing, but this purposefully
9 confuses authorities between
10 governments."

11 And I think this was your point here, that when
12 Ontario says, "they are your bridges so you can control the
13 blockades", you think Ontario, this is my expression not yours,
14 Ontario is being cute because everybody knows the problem isn't
15 in the centre of the bridge it's on provincial territory with
16 provincial jurisdiction or municipal authority. Is that right?

17 **DM MICHAEL KEENAN:** I think that was part of it,
18 and the -- it was -- I would say in the main that was right.

19 **MR. GORDON CAMERON:** Yes. Now, did Ms. Drouin's
20 proposal go any further than this, than your critique of it?

21 **DM MICHAEL KEENAN:** I think she was asking a
22 question, and I think in the follow up discussions, both in
23 email and in person, I think colleagues found this four-part
24 analysis helpful in clarifying.

25 And then actually it's interesting, because as I
26 was typing this, this was the 10th of February, and that day,
27 perhaps at the same moment, unbeknownst to me, the Ontario
28 Cabinet was deliberating on declaring an emergency and getting

1 active and fully exercising its jurisdiction on the streets of
2 Windsor. That became known to us later that evening and it
3 became a reality the next day.

4 So I would say that to a certain extent, on this
5 particular issue, it was overtaken by events, the event being a
6 pretty hard pivot on the part of Ontario.

7 **MR. GORDON CAMERON:** Right. A welcome pivot, as
8 you described.

9 **DM MICHAEL KEENAN:** A welcome pivot.

10 **MR. GORDON CAMERON:** Yes. Moving ahead to
11 February 13th, so we're now just coming right up to the
12 invocation of the Act, you participated in a DMOCC meeting where
13 the potential use of the Act was contemplated. Do you recall
14 that meeting?

15 **DM MICHAEL KEENAN:** Yes, I do.

16 **MR. GORDON CAMERON:** And do you recall, we're not
17 going to ask for a roll call or perfect memory, but who was at
18 that meeting, to the best of your recollection?

19 **DM MICHAEL KEENAN:** It was the -- and it's
20 interesting, because on that weekend, I think there were up to
21 12 Deputy Minister and Cabinet meetings. So it was a bit of --
22 it was jammed in.

23 But on that one, it was the core group of
24 deputies working on this issue. So the National Security
25 Intelligence Advisor, Deputy Minister of Public Safety, the
26 President of CBSA, myself, RCMP, CSIS, and some of the normal
27 members of DMOCC were not -- who didn't have -- who weren't
28 actively involved may not have been there, like the Public

1 Health Agency. But the core people working on the crisis were
2 there.

3 **MR. GORDON CAMERON:** Right. Mr. Clerk, perhaps
4 it would help Mr. Keenan if we called up his notes of that
5 meeting. It's SSM.CAN.00000399.

6 And what you can see here, right at the beginning
7 of the notes -- first of all, are these your notes? I assumed
8 that, but I should get you to confirm it.

9 **DM MICHAEL KEENAN:** Yes, because it's in the --
10 for "Rob and I", and the I here is me.

11 **MR. GORDON CAMERON:** Right. And your first
12 point, I think is self-evident. The next one:

13 "Rob and I argued that Emergencies Act can
14 backfire in building more energy."

15 We heard some evidence from Mr. Stewart on that
16 point. Can you give us your perspective on that point?

17 **DM MICHAEL KEENAN:** Sure. We're in an
18 environment -- we're in the third weekend. Going across the
19 country, the level of unlawful behaviour energy is really high
20 in a lot of places and there was an assessment that there's
21 enough energy that things are really very close to some
22 significant violence. And so managing the energy and trying to
23 bring it down and downscale is obviously a key objective.

24 There were -- we are -- on the 13th, we are well
25 into the discussion of the *Emergencies Act*, and the options, and
26 sort of how and whether to use it. And there was a discussion
27 about the implications of what we would gain, in terms of
28 necessary tools to resolve the blockades and occupations, and

1 whether the invoking the Act itself would add energy to the
2 blockades and the options. And both Rob and I, in different
3 ways, but we both made the point we had to be very mindful of
4 the *Emergency Act* causing a bigger blockade than it's trying to
5 solve.

6 This is -- it's like at night, it's an intense
7 weekend, but this reflects us working through and grappling to
8 understand, as quickly and as best we can, all the intended and
9 unintended consequences of something as serious as invoking the
10 *Emergencies Act* in order to provide the most rigorous analysis
11 we can.

12 If we -- to add one more point, if we hadn't been
13 looking at this kind of issue of unintended consequences, it
14 would have almost been irresponsible, given how serious the
15 decision to invoke the Act is.

16 **MR. GORDON CAMERON:** That's a helpful point. And
17 if I can key off that and ask you, having weighed that point
18 into the balance, that is, the potential adverse effects of
19 invoking the *Emergencies Act*, did you express a view at the
20 meeting about whether you thought the invocation of the Act was
21 appropriate at this time?

22 **DM MICHAEL KEENAN:** I certainly expressed view on
23 implications, and I expressed a clear -- I brought into it a
24 clear analysis of the impact of the -- that the -- I brought
25 into it a clear analysis and on what the *Emergency Act* could do
26 to solve the tow truck problem. I didn't provide an overall
27 comprehensive view on the *Emergencies Act* for the following
28 reason. There was a number of potential powers that were being

1 considered and authorities that were being considered, and I
2 didn't feel I had the expertise to assess the total sum of it.

3 But on the tow truck issue, it was very clearly
4 would solve the problem.

5 **MR. GORDON CAMERON:** Thank you. That's a very
6 helpful answer. And I'll use that to just ask the last
7 question, which is, having been in the position you were, which
8 appears to have been very senior in the Federal Government and
9 very intricately connected with your counterparts at the
10 provincial and territorial governments on the Transportation
11 portfolio, which turns out to have been quite involved in the
12 Government's reaction to these events, are there things you
13 could -- you wish -- the Commissioner should take into
14 consideration in contemplating recommendations for how you would
15 have been better able to handle a problem like this if they'd
16 been in place, or looking into the future, what structures,
17 regimes, or tools you would hope to be in place if you encounter
18 a situation like this again?

19 **DM MICHAEL KEENAN:** I've had the fortune or
20 misfortune of encountering this kind of -- well, this situation
21 was an unprecedented crisis in the country, but the two years
22 before, there was also a series of fairly significant blockades
23 of transportation infrastructure, the rail blockades in the
24 winter of 2020.

25 I would say that looking at those blockades and
26 the much graver crisis the country faced in the winter of '22,
27 there is an issue related to the emails -- the email that was up
28 on the screen about trade corridors. And that confusion,

1 imputed it was purposeful, but there's a -- I would say my
2 assessment is that there's a gap in the laws of the land with
3 respect to the tools available to government to secure strategic
4 trade corridors, because you -- once you get -- once you step
5 one meter off of a bridge, you go from a federal -- a broad
6 federal toolset to municipal bylaws. And that bears attention.
7 I think there's a solution to that. And if I would submit any
8 suggestion to the Commission, it would be thoughts in terms of
9 that problem and what governments *in toto* should do about it.

10 **MR. GORDON CAMERON:** Thank you, Mr. Commissioner.
11 Those are the questions of Commission Counsel for this panel.

12 **COMMISSIONER ROULEAU:** Okay. So with that, we
13 can turn to the questioning by the convoy organizers.

14 **MS. ANDREA GONSALVES:** Mr. Commissioner, before
15 we begin the cross-examinations, during the examination by
16 Commission Counsel, my friend, Mr. Miller, for the convoy
17 organizers, emailed some documents that he proposes to put to
18 the panel. We weren't given notice of those in accordance with
19 the rules. In a couple cases, they're not even in the database
20 yet. And before cross-examination begins, at the very least, I
21 would like an opportunity to review those documents with the
22 witnesses so that they could be properly prepared. Given the
23 breach of the rules, I think that that is appropriate.

24 **MR. BRENDAN MILLER:** Well, one of them wasn't
25 uploaded to the database until today. I just found it. The
26 other two -- that's fine. I don't have any issue. If that --
27 these are, I think, important, so we just found them. Big
28 database, sir. I don't have an issue with my friend talking to

1 ---

2 **COMMISSIONER ROULEAU:** Okay. So maybe we can
3 start with the Canadian Civil Liberties Association, and what
4 we'll do is you can speak to the witnesses at the break, when we
5 take the break; is that agreeable?

6 **MS. ANDREA GONSALVES:** Yes, that's fine. Thank
7 you very much.

8 **COMMISSIONER ROULEAU:** And we'll simply go to the
9 Convoy Organizers after the break.

10 Okay. So?

11 **MS. CARA ZWIBEL:** Thank you. Good afternoon.
12 Can you hear me okay and ---

13 **COMMISSIONER ROULEAU:** Yes.

14 **MS. CARA ZWIBEL:** -- see me hopefully?

15 **--- CROSS-EXAMINATION BY MS. CARA ZWIBEL:**

16 **MS. CARA ZWIBEL:** Okay. Good afternoon. My name
17 is Cara Zwibel. I am Counsel for the Canadian Civil Liberties
18 Association. A lot of the questions I'd intended to ask you
19 have been covered, so I just have a few things I want to take
20 you through and they are relevant to some of the issues that Mr.
21 Cameron was just talking to you about. That trade corridor
22 email, and if you want, we can pull it back up, but you might be
23 able to answer this question without it. But there was -- I
24 think you described it just now as a provocative suggestion in
25 there about, you know, letting Ontario know that if they wanted
26 the federal government to take some sort of action, Ontario
27 would have to declare an emergency. And I take it you -- it was
28 your view that the federal government would not really be in a

1 position to declare an emergency if Ontario, where probably the
2 most significant of the blockades were taking place, had not yet
3 taken that step. Is that accurate?

4 **DM MICHAEL KEENAN:** I apologize. Could you just
5 clarify the question?

6 **MS. CARA ZWIBEL:** Sure. So I've just -- there
7 was the suggestion in this email, I think you talked about sort
8 of this poison pill where Ontario needs to be made aware that if
9 they expect the federal government to step in that they will
10 have to declare an emergency.

11 So leaving aside I guess that sort of
12 characterization of it, was it your view at the time that the
13 federal government could not or would not be in a position to
14 make use of the *Emergencies Act* unless or until Ontario had
15 declared an emergency?

16 **DM MICHAEL KEENAN:** I think I got it. Thank you
17 for that ---

18 **MS. CARA ZWIBEL:** Sorry.

19 **DM MICHAEL KEENAN:** --- clarification. Thank
20 you. That's very helpful.

21 The core point or the core logic of that
22 particular point in the email was a bit different. It was the -
23 - and the purposeful -- and the earlier point relates to the
24 fact that if you look at the letter that came from Deputy
25 Minister Leblanc on the 8th, the public comments of Mr. Mulroney
26 on the 9th, Ontario was really backing away, sort of washing its
27 hands and saying this is a federal problem. The federal
28 government has to solve it. And so the provocative point was to

1 go back to Ontario and say, "No, it's in your jurisdiction. You
2 have to use your authorities to solve this, or it can't get
3 solved. If you're not going to use your authorities, we don't
4 have any unless you hand it over to us, and the only way to do
5 that is the *Emergencies Act*." So it was more of an attempt to
6 get -- to be provocative and get Ontario back in the game of
7 actually exercising its jurisdiction on the streets of Windsor.

8 **MS. CARA ZWIBEL:** Okay. And I know you said
9 that, you know, while all this was happening unbeknownst to you,
10 things were already in the works in Ontario to declare an
11 emergency. So I take it, that notion was never communicated to
12 Ontario, by you at least. Or are you aware whether anyone
13 articulated that to Ontario, that the federal government's
14 emergency power is unlikely to be used unless Ontario has
15 declared an emergency?

16 **DM MICHAEL KEENAN:** Well, I don't think that that
17 point was in my email, and then -- and I don't know if -- I know
18 I did not communicate that, and I don't know if anybody else
19 communicated that.

20 **MS. CARA ZWIBEL:** Okay. Thank you.

21 Sorry, just eliminating things that have been
22 covered.

23 There's a few emails right around when Ontario
24 declared the emergency where you're -- you seem pretty happy
25 that that's happened; right? That's a significant turning point
26 potentially, and especially I think when you see the Ontario --
27 the orders and understand the potential to use those to
28 incentivize drivers to leave. Those seem to be useful powers to

1 you.

2 Now there was a document -- if we can turn up
3 SSM.CAN.00000409? And just while it's coming up, I think this
4 is an email from -- so I think this is a different -- I think
5 there's a Doug -- oh, no, sorry, there's a Mike Jones that we've
6 heard about. This is a Doug Jones, who I think is in Ontario at
7 the Ministry of Transportation. And we can -- sorry, we can
8 scroll down to the bottom, just so Mr. Keenan can see where this
9 starts.

10 So this is on the 15th of February. And Mr. Jones
11 from the MTO has written to you,

12 "Further to our discussion this
13 morning, I was in contact with Deputy
14 Minister Di Tommaso. He advised that
15 he had a similar conversation with the
16 OPP leadership earlier today. I
17 suspect that we will see more field
18 action related to vehicle registrations
19 in the very near future."

20 And then just scrolling up, you note that on the
21 federal side -- you appreciate the update. It's a positive
22 development.

23 "On the federal side, the regulatory
24 orders under the *Emergency Act* are just
25 now signed, and [you've] briefed
26 infrastructure operators [...]. I
27 think there will be some early actions
28 on freezing financial accounts to be

1 used to fund illegal blockades. The
2 combination of Ontario and federal
3 measures should [I assume it's really]
4 help restore law and order on the
5 streets in Ottawa, and make it easier
6 to keep the bridges open to the US."

7 And he writes back,

8 "Great news [...]. I'll be watching
9 for that..."

10 So, first of all, can you tell us, do you recall
11 that discussion that's referenced further to our discussion this
12 morning where Mr. Jones says Mr. Di Tommaso had similar
13 conversation with the OPP leadership? Do you have any
14 recollection of what that's about?

15 **DM MICHAEL KEENAN:** Well, I think if you scroll
16 down, I'm not sure what the similar refers to, but my guess is
17 it's covered further down in the document.

18 **MS. CARA ZWIBEL:** I think ---

19 **DM MICHAEL KEENAN:** It's not. Okay.

20 **MS. CARA ZWIBEL:** --- this is the end. Yeah.

21 **DM MICHAEL KEENAN:** Well, it's clearly ---

22 **MS. CARA ZWIBEL:** It's okay. I know it's a long
23 time ago, so if you can't remember, that's fair enough. I just
24 thought I'd see if there was a ---

25 **DM MICHAEL KEENAN:** Well, there's clearly a cut-
26 off in the email chain because similar is referring to something
27 that follows. I think that, in general -- I should clear that
28 Doug Jones is the Deputy Minister of the -- of MTO, the

1 Transportation Ministry in Ontario. Laurie Leblanc had -- was
2 long scheduled to retire and ---

3 **MS. CARA ZWIBEL:** Oh, right. Okay.

4 **DM MICHAEL KEENAN:** --- she delayed and delayed
5 it, but she ultimately retired and transitioned to Doug. So
6 Doug is my new colleague.

7 **MS. CARA ZWIBEL:** Okay.

8 **DM MICHAEL KEENAN:** And I can't -- without seeing
9 the email that came before, I'm not a hundred percent certain
10 what similar is referring to, but in general, this is an
11 exchange between me and my new Ontario colleague, updating each
12 other on developments. And this is the 15th, so this is I think
13 the day that the federal regulations were issued under the
14 *Emergencies Act*.

15 **MS. CARA ZWIBEL:** Okay. So I think what the
16 similar is referring to is the -- it's further to our discussion
17 this morning, the way it ---

18 **DM MICHAEL KEENAN:** Yeah.

19 **MS. CARA ZWIBEL:** --- starts, so I don't know if
20 that means you had maybe a phone call or something and this is
21 an email follow-up. But do you know ---

22 **DM MICHAEL KEENAN:** I think I did have a call
23 with Doug around there.

24 **MS. CARA ZWIBEL:** Okay. And do you know -- I
25 mean, so we're at the 15th now. The provincial state of
26 emergency was declared four years -- sorry, four years -- four
27 days ago. Do you know sort of why we're just talking now about
28 seeing more field action related to vehicle registrations, why

1 there hadn't been any related to vehicle registrations prior to
2 that?

3 **DM MICHAEL KEENAN:** Well, there's two things.
4 The -- so the regulations, as I remember, the regulations under
5 the Ontario Emergency Declaration came out on Saturday the 12th.

6 **MS. CARA ZWIBEL:** Okay.

7 **DM MICHAEL KEENAN:** And so this is the 15th. This
8 is three days later. And so it's not that long since they
9 started doing this. And with a lot of these things, they have
10 to -- you have to figure out how you're going to operate the new
11 authority. And the other thing that's interesting in the email,
12 and it reveals our thinking at the time, the -- I think on the -
13 - this is the 15th. I think on the 14th, traffic was restored
14 to the Ambassador Bridge, but the briefing from the police is
15 they were not 100 percent certain they could keep it open. And
16 so there was a continued vigilance looking -- and a concern
17 about what it would take to keep that bridge open, and hence,
18 the point that the combination of the two authorities would make
19 it easier to keep it open.

20 If the bridge had closed again, our estimation
21 because of the previous comment I made about investor confidence
22 and reliable trade partner, a second closure right away would
23 have been a -- would have been probably worse than the first
24 closure.

25 **MS. CARA ZWIBEL:** Okay. Do you -- so like you
26 said, I mean this takes a bit of time, right, these emergency
27 orders. It's not like when legislation is passed by Parliament
28 and there's a fair bit of lead up and preparation time. When we

1 have emergency orders, they're sort of operative the moment
2 they're printed, and people are figuring out how to
3 operationalise them.

4 So at the federal level, when the emergency
5 measures, the regulations, the orders were put in place on the
6 15th, it was still a few days -- it took a few days for law
7 enforcement, for example, to start integrating some of those
8 messages into their communications with protesters and things
9 like that. Is that ---

10 **DM MICHAEL KEENAN:** No.

11 **MS. CARA ZWIBEL:** Sorry ---

12 **DM MICHAEL KEENAN:** I don't ---

13 **MS. CARA ZWIBEL:** --- go ahead.

14 **DM MICHAEL KEENAN:** Sorry. Sorry, I didn't meant
15 to cut you off.

16 **MS. CARA ZWIBEL:** No.

17 **DM MICHAEL KEENAN:** Go ahead.

18 **MS. CARA ZWIBEL:** No, I'm just wondering if
19 that's -- I mean, you know that there's a little bit of lag
20 time; right? It takes a little bit of time for these new powers
21 to sort of make their way to the street?

22 **DM MICHAEL KEENAN:** It depends on the nature of
23 the power. And interestingly enough in this context I would say
24 because there was an acute national crisis, with significant
25 risk to safety and the economic security of the country, there
26 was a real urgency. And I'll give you -- I -- I'll talk about
27 the federal orders because I'm a bit more familiar with their
28 implementation than the Ontario orders.

1 So on the 15th, the proclamation of the emergency
2 by the Government of Canada was the 14th, the regulations were
3 issued on the 15th. On the same day the regulations are issued,
4 Transport Canada assembled all of the key transportation
5 operators in the country, and with their -- and brief -- and
6 with our partners at Public Safety briefed them on -- in detail
7 on these authorities, and -- because we remained significantly
8 concerned about, you know, slow rolls at airports, blockades at
9 railways.

10 And on the 16th, there was a -- Transport Canada
11 joined Public Safety senior officials in a detailed briefing of
12 all provincial transportation -- all provincial transport
13 officials, all provincial sol gen's, the -- all provincial
14 police forces and the major city police forces, police services,
15 excuse me, running them through in detail all of these orders.

16 And so within 24 hours there was an extensive
17 promulgation to all operating partners on the orders, and they
18 were -- and some of them were being used as early as the 16th,
19 17th. So it was -- I would characterise that, done a lot of
20 implementation of regulations, this is the fastest I've ever
21 seen anything implemented.

22 **MS. CARA ZWIBEL:** Which makes sense; right? The
23 idea obviously behind using these emergency orders is that they
24 need to be implemented quickly.

25 So I think, and I know your colleague,
26 Mr. Stewart, did tell us about the briefings, it sounds like
27 there was quite a lot of them, to various stakeholders and to
28 including media and things like that. Were you aware that

1 Ontario may have been a little bit slower in terms of carrying
2 out some of the powers that it had under its emergency order?
3 When Mr. Freeman, from the Ministry of Transportation, testified
4 before the Commission, I'm not sure if you had an opportunity to
5 review his testimony. Did you?

6 **DM MICHAEL KEENAN:** I have not.

7 **MS. CARA ZWIBEL:** Okay. So Mr. Freeman, he was
8 taken to a document where -- it's the suspension warnings that
9 the Ministry of Transportation in Ontario is sending out to
10 operators, saying that they might be -- their licences may be
11 suspended if they don't stop engaging in unlawful behaviour
12 under the emergency orders. So those are not sent out until the
13 17th of February.

14 That -- is that timeline, is that something that
15 you were aware of at the time? Did you know that there was
16 this... I suppose what I'm getting at, and maybe I'll just come
17 out and ask you. One of the questions for me is whether
18 Ontario's orders might have been enough had they been given some
19 time to work.

20 Now, there's a question I think whether they
21 weren't prepared to sort of engage in more serious enforcement
22 until the federal government's emergency had been declared.
23 That's a question only Ontario can answer, and we can't ask
24 them. But do you think Ontario's powers, had they been
25 exercised and given a bit of time to work, might have addressed
26 the main problems, being Windsor and Ottawa?

27 **DM MICHAEL KEENAN:** A couple of things, so sort
28 of a hypothetical, we just have to be careful not be

1 speculative, but I didn't have the -- the sense you're
2 describing that Ontario was like slow walking their orders, I
3 didn't have that sense.

4 **MS. CARA ZWIBEL:** Okay.

5 **DM MICHAEL KEENAN:** In fact, I thought that the
6 Ontario declaration and the regulations were used almost
7 instantly in communicating to the blockaders in Windsor. And so
8 in that sense, they were put to use instantly. If you go back
9 to our strategic enforcement strategy, that was textbook sort of
10 how to do that, and in fact, we had incorporated that in real
11 time.

12 And the second is that -- so I didn't have a
13 sense they were slow walking them, and I think in terms of all
14 of the problems that tools that were deployed for under the
15 *Emergencies Act*, I'll focus myself to tow trucks because that's
16 the one where I sort of had developed over three weeks some
17 instantaneous expertise, and on that one I didn't see how the
18 Ontario orders were going to solve that problem, even if given
19 lots of time.

20 **MS. CARA ZWIBEL:** Okay.

21 **COMMISSIONER ROULEAU:** Okay, you're well out of
22 time.

23 **MS. CARA ZWIBEL:** Oh, okay.

24 **COMMISSIONER ROULEAU:** I don't know if you can
25 wrap up.

26 **MS. CARA ZWIBEL:** I'm sorry.

27 The one last question I can ask. Did the federal
28 government ever consider purchasing tow trucks, or has it

1 purchased tow trucks since this incident happened? Is that
2 something on the table or something you might suggest would be
3 something to consider?

4 **DM MICHAEL KEENAN:** We -- I can tell you we
5 looked at a whole range of options, including purchasing tow
6 trucks, but we didn't. And the reason we didn't is because of
7 the problem Alberta ran in to. They bought a couple of tow
8 trucks and then -- but they -- but then they were stuck with a
9 couple of big pieces of equipment that they didn't have trained
10 operators for.

11 **MS. CARA ZWIBEL:** Right. Okay.

12 **DM MICHAEL KEENAN:** So we looked at it, but we
13 didn't think it would solve the problem.

14 **MS. CARA ZWIBEL:** Thank you. Thank you,
15 Mr. Keenan. Merci.

16 Thank you, Mr. Commissioner.

17 **COMMISSIONER ROULEAU:** Okay.

18 Well, maybe this is a good time for the morning
19 break, or the afternoon break. I'm back into that bad habit.
20 It's -- so the afternoon break, we'll take 15 minutes. And
21 during that time perhaps you won't get a break because you'll be
22 reviewing documents.

23 **DM MICHAEL KEENAN:** Documents.

24 **COMMISSIONER ROULEAU:** If you need more time,
25 please indicate it to Commission staff, Commission Counsel, and
26 we can accommodate small, additional time if needed.

27 **THE REGISTRAR:** The Commission is in recess for
28 15 minutes. La Commission est levée pour 15 minutes.

1 --- Upon recessing at 3:58 p.m.

2 --- Upon resuming at 4:18 p.m.

3 **THE REGISTRAR:** Order. À l'ordre. The Commission
4 is reconvened. La Commission reprend.

5 **--- DM MICHAEL KEENAN, Resumed:**

6 **--- MR. CHRISTIAN DEA, Resumed:**

7 **COMMISSIONER ROULEAU:** Go ahead.

8 **--- CROSS-EXAMINATION BY MR. BRENDAN MILLER:**

9 **MR. BRENDAN MILLER:** Gentlemen, good afternoon.
10 My name is Brendan Miller and I'm counsel to Freedom Corp, which
11 represents the protestors that were in Ottawa in January and
12 February of 2022.

13 So I just want to begin first by bringing up an
14 email. And it's government document SSM.CAN.00004353_Rel.0001.
15 And if we could scroll down to the last page? It's in reverse
16 order. Okay. And up -- I apologize. Up to the beginning,
17 where the email starts.

18 Okay. So this is an email from Ron Rienas. Are
19 you familiar that he's the GM of the Peace Bridge? He's the
20 general manager of the Peace Bridge?

21 **DM MICHAEL KEENAN:** Yes.

22 **MR. BRENDAN MILLER:** Okay. And then the other
23 individual who the email was sent to is Vance Badawey? And I
24 take it you understand that Vance, by the way, is the Member of
25 Parliament for Niagara Center?

26 **DM MICHAEL KEENAN:** Yes.

27 **MR. BRENDAN MILLER:** And are you familiar with
28 Tim Clutterbuck? He, I understand, is the recently retired

1 president of AWS Steel? Are you familiar with him?

2 **DM MICHAEL KEENAN:** I don't think I know this
3 person.

4 **MR. BRENDAN MILLER:** Okay. So I want to go
5 through this email with you briefly. And in it is some
6 information about not the blockades, but as of January 27th,
7 there the GM of the Peace Bridge advises that:

8 "Yesterday border delays were 70 [to]
9 75 minutes entering Canada and trucks
10 were queued across the Peace Bridge and
11 [...] mile[s] up the I-190 in Buffalo.
12 Truck processing times at Canada
13 Customs have increased from 2 minutes
14 [...] to 3 minutes per truck.
15 While some truckers are leaving the
16 industry because [of] the vaccination
17 requirements, what is not being talked
18 about is drivers quitting because of
19 border delays that impinge on their
20 hours of service requirements, onerous
21 ArriveCan and PHAC requirements, [et
22 cetera]. If they are not quitting the
23 industry they are getting out of long
24 haul cross border business and
25 switching to only domestic routes.
26 [And the] U.S. Bureau of Labour
27 report[s] just released states that
28 long haul trucking transportation cost

1 in the U.S. have increased [...]
2 25%..."

3 Do you agree with that statement as of January
4 22, 2022?

5 **DM MICHAEL KEENAN:** Which statement?

6 **MR. BRENDAN MILLER:** The one I just read to you.

7 **DM MICHAEL KEENAN:** Sorry, sir, there's just --
8 there's six statements here. I -- which one are you referring
9 to?

10 **MR. BRENDAN MILLER:** Well, we can go through each
11 one if you want. Which one -- actually, we'll just -- I'll do
12 it this way. Which of these each statements don't you agree
13 with?

14 **DM MICHAEL KEENAN:** The -- I have a hard time
15 agreeing or disagreeing simply because there's a few stats on a
16 very specific moment and a very specific crossing on a very
17 specific day. So I don't track that in my head, so I couldn't
18 agree or disagree with it.

19 **MR. BRENDAN MILLER:** Okay. But you have no
20 reason to say that this email is not correct?

21 **DM MICHAEL KEENAN:** When you say the email, this
22 is an email I've never seen and I've only read a quarter of it,
23 so I have a hard time coming up with a proper judgment of this
24 email.

25 **MR. BRENDAN MILLER:** Okay. So you haven't seen
26 this email before today?

27 **DM MICHAEL KEENAN:** No.

28 **MR. BRENDAN MILLER:** Okay.

1 **DM MICHAEL KEENAN:** It's not -- it's to a number
2 of people. Like, I'm not on the chain; right?

3 **MR. BRENDAN MILLER:** Okay. And it states there
4 under the link, if we can scroll down? It says,

5 "Steps need to be taken immediately to
6 reduce the processing time to pre-
7 pandemic levels
8 Rethinking the necessity of asking
9 multiple health related questions as
10 they are not being answered honestly
11 anyway[s] and adding a field [of] a
12 driver's Fast card to indicate
13 vaccination status, are a couple [of]
14 suggestions."

15 Was that addition to a Fast card, was it ever
16 implemented?

17 **DM MICHAEL KEENAN:** So this would be a question
18 that you would need to put to CBSA because it has to do with the
19 details of the operations of a border point, which is their
20 responsibility.

21 **MR. BRENDAN MILLER:** Okay. And if we can scroll
22 down where it discusses ArriveCan and we'll just hop right to
23 the points there beginning "as traffic returns". So there the
24 GM of the Peace Bridge says,

25 "as traffic returns to normal the
26 longer processing times associated with
27 ArriveCan and travellers not filing or
28 [not filling or] improperly [filing]

1 will result in border gridlock."

2 Did that happen?

3 **DM MICHAEL KEENAN:** The characterization of
4 border gridlock at this time is not consistent with my memory or
5 our analysis of the transportation trends.

6 **MR. BRENDAN MILLER:** Okay. And it says there
7 too,

8 "ArriveCan is not a binational program
9 like Nexus [and] Fast and is unknown in
10 the U.S. meaning many American visitors
11 will arrive at the border unprepared."

12 Is that true?

13 **DM MICHAEL KEENAN:** I think it is certainly true
14 that ArriveCan is not a binational program. It's a national
15 program. It's a tool of CBSA, so it's a national program. And
16 in fact, actually, ArriveCan is not a program. ArriveCan is a
17 border facilitation tool.

18 **MR. BRENDAN MILLER:** What about the statement
19 there that they state that these mandates essentially,

20 "will adversely impact travellers,
21 particularly the elderly, who do not
22 have smart phones"

23 Would you agree with that?

24 **DM MICHAEL KEENAN:** Sorry, read -- which ---

25 **MR. BRENDAN MILLER:** Sorry, I might have skipped
26 one.

27 **DM MICHAEL KEENAN:** Can you just point out
28 because I'm ---

1 **MR. BRENDAN MILLER:** Oh, yeah, so will adversely

2 ---

3 **DM MICHAEL KEENAN:** You have to give me a break
4 because this is a document I've never seen before.

5 **MR. BRENDAN MILLER:** Right. Okay.

6 **DM MICHAEL KEENAN:** So which point?"

7 **MR. BRENDAN MILLER:** So where it says,
8 "will adversely impact travellers,
9 particularly the elderly, who do not
10 have smart phones"

11 **DM MICHAEL KEENAN:** And that point relates to
12 what?

13 **MR. BRENDAN MILLER:** The essentially vaccine
14 mandates and, as I understand from reading it, the essentially
15 administrative process now put in place by the federal
16 government in trying to cross the border.

17 **DM MICHAEL KEENAN:** My general impression of
18 vaccine mandates is the vaccinations protect the elderly.

19 **MR. BRENDAN MILLER:** Right. But would you agree
20 that it adversely impacted travellers, particularly elderly, who
21 do not have smart phones. Can you agree with that statement?

22 **DM MICHAEL KEENAN:** I can't agree or disagree
23 because I don't really get the context in which it's sort of
24 asserted.

25 **MR. BRENDAN MILLER:** Okay. Would you agree that
26 the experience with the border from the general manager as he
27 states is that,

28 "...requirements that impose additional

1 steps, more documentation, providing
2 more information, create border delays,
3 [and as a] results border avoidance"

4 So avoiding going across the border. Can you
5 agree with that?

6 **DM MICHAEL KEENAN:** Well, I would agree they're
7 his statements, but they're -- there's some generalities here
8 that I don't -- that I have a hard time sort of agreeing with or
9 disagreeing with because of the context is unclear to me.

10 **MR. BRENDAN MILLER:** Okay. And so if we can
11 scroll up then to page number -- the one directly before the
12 email because he's in reverse? Okay.

13 And so in this email, I take it you know who
14 these folks are. It's Mr. Badawey forwards the email to the
15 following people, and that's to Minister Mendocino, the Minister
16 of Public Safety. You know who he is?

17 **DM MICHAEL KEENAN:** Yes, I do.

18 **MR. BRENDAN MILLER:** And he also forwards it to
19 Minister Alghabra, the Minister of Transport.

20 **DM MICHAEL KEENAN:** I'd know Mr. Alghabra well.

21 **MR. BRENDAN MILLER:** Right. And he's the
22 Minister that you report to?

23 **DM MICHAEL KEENAN:** Yes.

24 **MR. BRENDAN MILLER:** Right. And he didn't pass
25 this onto you?

26 **DM MICHAEL KEENAN:** To my memory and knowledge,
27 he did not pass this on to me.

28 **MR. BRENDAN MILLER:** Right. And but, you know,

1 as the Deputy Minister of Transport, as the highest essentially
2 civil servant within that Ministry, isn't this sort of
3 information something important that you should know?

4 **DM MICHAEL KEENAN:** I think you have to
5 understand the context. Transport Canada, the Minister of
6 Transport gets a massive amount of correspondence. I get a
7 massive amount of correspondence. On something like this on an
8 exchange between an MP and the Minister, I may or may not see
9 it, depending upon the nature and the context. So it's neither
10 surprising nor -- it wouldn't be surprising for me to get it and
11 it wouldn't be surprising for me not to get it. And this one --
12 this -- I do not recall this being forwarded to me.

13 **MR. BRENDAN MILLER:** Okay. Can you agree that
14 having this forwarded to you would have been of assistance in
15 carrying out your duties as the Minister of Transport?

16 **DM MICHAEL KEENAN:** No.

17 **MR. BRENDAN MILLER:** All right. So in your
18 evidence earlier today, you talked about the economic impact of
19 the protest at the border; is that right?

20 **DM MICHAEL KEENAN:** Not of the protest at the
21 border, of the blockage of the transportation of commercial
22 goods.

23 **MR. BRENDAN MILLER:** Right. In all of that
24 evidence, can you agree with me that most of it was hypothetical
25 and that you haven't done an *ex post facto* analysis?

26 **DM MICHAEL KEENAN:** It wasn't hypothetical
27 because the blockade was an actual thing.

28 **MR. BRENDAN MILLER:** Well, I understand that.

1 **DM MICHAEL KEENAN:** And the concerns, the impact
2 was an actual impact. And the stress and the adverse sort of
3 impact on the assessing Canada as a place to invest in, in sort
4 of auto production was an actual impact. So they were actual
5 impacts, not hypothetical ones.

6 **MR. BRENDAN MILLER:** Right. But you can agree
7 that those things I just showed you from the GM of the Peace
8 Bridge, those would also impact the issue with respect to being
9 able to get across the border in a timely manner. People were
10 quitting trucking because of delays. So does that -- that's an
11 adverse impact; is it not?

12 **DM MICHAEL KEENAN:** The issues you're -- that
13 list of issues you raised were ones that we were monitoring
14 closely with our colleagues at CBSA and other departments. And,
15 in fact, we were tracking over the course of -- excuse me -- we
16 were tracking over the course of January the trends in truck
17 traffic across the border.

18 **MR. BRENDAN MILLER:** Okay.

19 **DM MICHAEL KEENAN:** Things like sort of
20 congestion and gridlock I don't think we ---

21 **MR. BRENDAN MILLER:** Right.

22 **DM MICHAEL KEENAN:** Until the border blockades
23 caused by the Freedom Convoy, I don't think we were observing
24 gridlock.

25 **MR. BRENDAN MILLER:** Right.

26 **DM MICHAEL KEENAN:** What we did see was actually
27 that the trucks were flowing at about the rate you would expect
28 given this time of year.

1 **MR. BRENDAN MILLER:** Okay. So ---

2 **DM MICHAEL KEENAN:** So we --

3 **MR. BRENDAN MILLER:** Can I ---

4 **DM MICHAEL KEENAN:** --- analyzed it and ---

5 **MR. BRENDAN MILLER:** I understand. I ---

6 **DM MICHAEL KEENAN:** --- our conclusion was
7 different ---

8 **MR. BRENDAN MILLER:** I thank you for your ---

9 **DM MICHAEL KEENAN:** --- from the one that ---

10 **MR. BRENDAN MILLER:** --- I thank you for your
11 answer.

12 **DM MICHAEL KEENAN:** --- suggests.

13 **MR. BRENDAN MILLER:** But you're familiar with the
14 government agency Statistics Canada or Stats Can; is that
15 correct?

16 **DM MICHAEL KEENAN:** Yes.

17 **MR. BRENDAN MILLER:** All right. And Stats Can is
18 the national statistic office, it's the agency that ensures
19 Canadians have key information with respect to the economy. You
20 understand that?

21 **DM MICHAEL KEENAN:** Yes.

22 **MR. BRENDAN MILLER:** And Stats Can comes under
23 the Ministry of Innovation, Science and Industry, you're aware?

24 **DM MICHAEL KEENAN:** Yes.

25 **MR. BRENDAN MILLER:** And it's accountable to
26 Parliament through that Minister, who's currently Minister
27 Champagne; is that correct?

28 **DM MICHAEL KEENAN:** Yes.

1 **MR. BRENDAN MILLER:** Okay. If I could please
2 bring up POE.HRF00000009.

3 So this document is a report done by Stats Can on
4 Canadian International Trade, Merchandise Trade February 2020.
5 And the key point that I want to take you to is -- I've
6 highlighted.

7 If we could roll down, please, to, I think it's
8 page 4. No, apologies.

9 I will just get the right page for you.

10 It is on PDF page 8. My apologies.

11 Okay. And so there, they did a summary of their
12 findings, and it says "Blockades at border crossings", and I'll
13 just read that to you and then I'll put the question to you.

14 So:

15 "In late January and February 2022, some
16 border crossings between Canada and the
17 United States were blocked by
18 protesters, preventing the normal flow
19 of goods between the two countries.
20 According to Statistics Canada data,
21 when combined, Canada's highway border
22 crossings at the Ambassador Bridge
23 (Ontario), Coutts (Alberta), Emerson
24 (Manitoba), and the Pacific Highway
25 (British Columbia) represent more than
26 one-third of Canada's trade activity by
27 road. Road transport accounts for more
28 than half of Canada's trade with the

1 United States.
2 In customs basis figures for February,
3 trade activity by road transport at
4 these border crossings fell 8.8%
5 compared with February 2021, with the
6 Ambassador Bridge and Coutts crossings
7 posting the largest declines. However,
8 increased trade activity was observed at
9 other crossings near the ones that were
10 blocked, partly offsetting the decline
11 in traffic. Overall, the blocked border
12 crossings appear to have had little
13 impact on the aggregate values of
14 Canadian imports and exports in
15 February."

16 Do you agree with that statement?

17 **DM MICHAEL KEENAN:** I think to provide the best
18 possible answer, if you permit, I'll defer to the Chief
19 Economist of Transport Canada, who is familiar with Statistics
20 Canada's reporting more so than I am.

21 **MR. CHRISTIAN DEA:** Could you repeat your
22 question, please?

23 **MR. BRENDAN MILLER:** The statement I just gave
24 from Statistics Canada, do you agree with it?

25 **MR. CHRISTIAN DEA:** Well, I think this is based
26 on monthly data that they're providing, yes.

27 **MR. BRENDAN MILLER:** Yes, okay. So you agree
28 with it.

1 **MR. CHRISTIAN DEA:** We agree with the statement
2 where they were saying that they were declined in terms of their
3 data on the trade and, at the same time, that they have seen
4 some realignment of the traffic.

5 **MR. BRENDAN MILLER:** Right. And so have you seen
6 this document before today?

7 **MR. CHRISTIAN DEA:** I have seen the document
8 before.

9 **MR. BRENDAN MILLER:** All right. And when did you
10 see it?

11 **MR. CHRISTIAN DEA:** I don't remember exactly the
12 date. Well, it's clearly before the day of the -- they produced
13 the document or the following day.

14 **MR. BRENDAN MILLER:** Okay. So I just got this
15 document today and we uploaded it to the system. Why wasn't
16 this document provided when you produced your production in this
17 matter? I'm just curious.

18 **MR. CHRISTIAN DEA:** Well, there's always a lag in
19 terms of the data. You know, I don't know the date.

20 If you can look at the date of the publication of
21 this document.

22 **MR. BRENDAN MILLER:** April of 2022.

23 **MR. CHRISTIAN DEA:** Well, there's a point.

24 So you know, our estimate was done in early
25 February with the information that we had at that time.

26 **MR. BRENDAN MILLER:** Okay.

27 **MR. CHRISTIAN DEA:** And as I was mentioning this
28 morning, we were monitoring the situation on a daily basis.

1 This is not an economic impact assessment.

2 **MR. BRENDAN MILLER:** Thank you.

3 **MR. CHRISTIAN DEA:** This is just a review ---

4 **MR. BRENDAN MILLER:** Understood.

5 **MR. CHRISTIAN DEA:** --- of the monthly trade data
6 pattern.

7 **MR. BRENDAN MILLER:** I only have so much time, so
8 I'm going to try to move on.

9 My last question has to do with
10 TS.CAN.001.0000002_REL0001.

11 So this is for your, Deputy Minister.

12 So this document was uploaded by the Department
13 of Justice just today, and I happened to just see it. What this
14 is, is essentially a decision chart on whether or not to decide
15 if there is what's referred to a section 2 *CSIS Act* threat.

16 And I understand you're not an expert in this
17 area, and I'm not going to put anything in here to you per se.
18 But have you seen this document before other than today?

19 **DM MICHAEL KEENAN:** I think I may have seen this
20 document in the course of my work, but I don't have any
21 familiarity with it and I have not done a detailed review of it.

22 **MR. BRENDAN MILLER:** Right. Can you remember --
23 because you were at the IRG meetings and you dealt with this
24 matter. Was this document provided to members of the IRG; do
25 you know?

26 **DM MICHAEL KEENAN:** The -- I think if the -- it
27 was definitely not provided by Transport Canada. Whether it was
28 provided by somebody else, I'm -- CSIS, for example, would be a

1 question best put to CSIS.

2 **MR. BRENDAN MILLER:** Right. So you don't recall
3 seeing this during the IRG meetings.

4 **DM MICHAEL KEENAN:** Do I recall seeing this
5 document during an IRG meeting? I don't think I -- no, I do not
6 recall seeing it.

7 **MR. BRENDAN MILLER:** Thank you.

8 And you can see there, and I want to put this to
9 you -- you're familiar in public administration and governance
10 generally and deciding -- are you familiar with the OODA Loop?

11 **DM MICHAEL KEENAN:** Sorry. Can you say that
12 again?

13 **MR. BRENDAN MILLER:** The OODA Loop process. Are
14 you familiar with it?

15 **DM MICHAEL KEENAN:** The OODA Loop, it sounds like
16 an acronym for something.

17 **MR. BRENDAN MILLER:** Observe, Orient, Decide,
18 Act. You've heard of that before?

19 **DM MICHAEL KEENAN:** I've heard there's -- yes,
20 I've heard of that and many variations for analytical processes.

21 **MR. BRENDAN MILLER:** Right. Well, you'll see in
22 here it says identify, assess, decide, act, so it's essentially
23 the OODA Loop.

24 And on the second part, it actually outlines what
25 you have to do before you can move to the third. And it says,
26 "Means and effect societal change". In order to do a section 2
27 CSIS Act threat, it has to be a finding, according to CSIS or
28 this document, "willingness to kill or inspire others to kill";

1 right?

2 I take it during your IRG meetings you didn't
3 hear any evidence of the protestors in Ottawa with any specific
4 persons saying that they were willing to kill or inspiring
5 others to kill, did you?

6 **DM MICHAEL KEENAN:** I can't answer that because
7 the -- there was extensive deliberations in the IRG meeting
8 protected by Cabinet confidence.

9 **MR. BRENDAN MILLER:** Right. Thank you.

10 **COMMISSIONER ROULEAU:** Okay. Next is the City of
11 Ottawa, please.

12 **--- CROSS-EXAMINATION BY MR. DANIEL CHOMSKI:**

13 **MR. DANIEL CHOMSKI:** Good afternoon. My name is
14 Daniel Chomski, and I'm counsel to the City of Ottawa.

15 My questions are going to be mostly for you,
16 Deputy, and what I want to focus on is the period between
17 February 4th sort of when you started to speak to other
18 provincial departments about what ended up being called the
19 strategic enforcement strategy and leading up until the
20 emergency that was called by the province on the 11th, okay?

21 **DM MICHAEL KEENAN:** Okay.

22 **MR. DANIEL CHOMSKI:** Now, as you alluded to
23 earlier today, your department raised a number of detailed
24 questions about commercial vehicle operators registration. Is
25 that correct? With the provincial government of Ontario.

26 **DM MICHAEL KEENAN:** Yes.

27 **MR. DANIEL CHOMSKI:** Okay. And you gathered
28 information about how CVOR, as it's known in its acronym, works?

1 **DM MICHAEL KEENAN:** Yes.

2 **MR. DANIEL CHOMSKI:** Then the system that
3 underlies it.

4 **DM MICHAEL KEENAN:** Yes. It would have been --
5 the details of the system underlying it would have been a
6 conversation by Transport officials that report to me, not me.

7 **MR. DANIEL CHOMSKI:** Right.

8 **DM MICHAEL KEENAN:** At the ADM level and the DG
9 level.

10 **MR. DANIEL CHOMSKI:** And the DG level. Okay.

11 And -- but you're aware that the CVOR program
12 monitors and evaluates operator safety records, driving
13 infractions and that there's a carrier record.

14 **DM MICHAEL KEENAN:** I'm generally aware of that,
15 yes.

16 **MR. DANIEL CHOMSKI:** Okay. Thank you.

17 So after you had these detailed conversations or
18 your Deputies did and -- your Assistant Deputy Ministers did and
19 you did as well, I believe you came up with something called the
20 maximum enforcement strategy. Is that correct?

21 **DM MICHAEL KEENAN:** That's right. We initially
22 called it the maximum enforcement strategy, but based on
23 feedback from some provincial partners we changed it to strategy
24 enforcement strategy.

25 **MR. DANIEL CHOMSKI:** Okay. And I understand that
26 as part of that -- and it was detailed in an earlier email to
27 your Minister -- the registrar would communicate -- and this
28 being the Motor Vehicle -- the Registrar of Motor Vehicles in

1 Ontario, would communicate to owners, CVOR -- owners that have
2 the CVOR certificate and they would -- to suspend CVORs for any
3 vehicle participating in blockades and demonstrations by a
4 particular date. Is that correct?

5 **DM MICHAEL KEENAN:** Could you give me a bit more
6 context for that question?

7 **MR. DANIEL CHOMSKI:** For sure.

8 **DM MICHAEL KEENAN:** Is this -- are you talking
9 under the normal course of events or the emergency orders of
10 Ontario?

11 **MR. DANIEL CHOMSKI:** So I'm talking the ordinary
12 course of events.

13 So before the emergency was declared in Ontario,
14 you had gathered information from the Province of Ontario,
15 particularly the Ministry of Transportation; correct?

16 **DM MICHAEL KEENAN:** We had both made inquiries as
17 to what is possible and we had gathered information.

18 **MR. DANIEL CHOMSKI:** Okay. And at some point,
19 your department, and you were of the opinion that you could
20 issue notice to holders of CVORs, saying that "We could suspend
21 your certificate in the event that your vehicle is participating
22 in a blockade or demonstration and would not leave by a certain
23 date"?

24 **DM MICHAEL KEENAN:** Again, and you're talking in
25 the absence of the Ontario Emergency rules?

26 **MR. DANIEL CHOMSKI:** That's correct, yeah.

27 **DM MICHAEL KEENAN:** I mean, that sounds like a
28 bit of stretch to me for two reasons. One is that we were

1 working collaboratively, so we were seeking their engagement to
2 get their determination of what is possible, and I don't think
3 we would have arbitrarily overruled them. And the second is
4 that we were trying to get to the kind of -- the kind of warning
5 that you declare -- that you described. I wasn't -- given the
6 cool, and then sort of negative, response of Ontario, I didn't
7 get a sense we had gotten all the way there with Ontario until
8 they made the pivot to the -- the Emergency Declaration.

9 **MR. DANIEL CHOMSKI:** Okay. So before the
10 Emergency Declaration, then, I'm just going to take you back to
11 the maximum enforcement strategy.

12 **DM MICHAEL KEENAN:** Yeah.

13 **MR. DANIEL CHOMSKI:** And from what I can glean
14 from the documents, both in the emails, and that were part of
15 the strategy itself, communications was a big part of it, was it
16 not?

17 **DM MICHAEL KEENAN:** Yes.

18 **MR. DANIEL CHOMSKI:** And part of it would be
19 communicating offences that the government could enforce.

20 **DM MICHAEL KEENAN:** Exactly.

21 **MR. DANIEL CHOMSKI:** Okay. And it was your
22 belief or your department's belief that this would be a
23 deterrence.

24 **DM MICHAEL KEENAN:** If done properly we believed
25 that this would help deter people from either joining, or induce
26 them to end and leave.

27 **MR. DANIEL CHOMSKI:** Right, okay. And I'm going
28 to take you to a document, and this document is actually going

1 to relate to after the time period of which the Emergency Order
2 in Ontario is brought into force. And so we're talking about
3 February 11th; that's when the Order was brought into place, was
4 February 11, 2022. And now, you'll know that's in place. Now,
5 it granted the Registrar of Motor Vehicles the power to make an
6 order suspending or cancelling plate permits, driver's licence,
7 and Commercial Vehicle Operator Registration certificate, so
8 again, the CVOR. You're aware of that?

9 **DM MICHAEL KEENAN:** Yes.

10 **MR. DANIEL CHOMSKI:** Okay.

11 Now, I'd like, Mr. Clerk, if you could please
12 bring up document ONT00000403?

13 (SHORT PAUSE)

14 **MR. DANIEL CHOMSKI:** Just leave it right there,
15 Mr. Clerk. Thank you.

16 And you'll see -- you're not on this email chain,
17 but -- if you could just scroll to the top -- it's an email,
18 actually, to Michael Beaton from a Ministry of Transportation of
19 Ontario civil servant. And you'll see at the top there --
20 Michael Beaton is the Chief of Staff to the Minister of
21 Transport. And you'll see at the top, it says, "Hi MO"; I think
22 we can all agree is the Minister's office?

23 **DM MICHAEL KEENAN:** Agreed.

24 **MR. DANIEL CHOMSKI:** Okay. And it goes on to
25 say:

26 "[I] Wanted to provide you with a quick
27 update on the situation in the City of
28 Ottawa. Also providing some general

1 background information on the barricade
2 in Windsor (further to our email last
3 night). As well as an update on a CVOR
4 warning letter."

5 And if you could just please scroll down?

6 And you'll see at that header there it says,

7 "CVOR Warning Letter"; you see that?

8 **DM MICHAEL KEENAN:** Yes.

9 **MR. DANIEL CHOMSKI:** Okay. And it says:

10 "FYI - TSD has created a warning letter
11 for CVOR holders as another tool that
12 can be used at the frontlines for the
13 convoy [or] protest."

14 I'll read the second bullet:

15 "The police are aware of this strategy
16 and supportive of the approach. The
17 police command centre in Ottawa will be
18 providing a list of the carriers that
19 they want MTO to send letters out to.
20 All of this..."

21 And this is the important point:

22 "All of this will be tracked and can be
23 reported on.... The other option of
24 suspending plates/licence/CVOR remains,
25 this will just give enforcement
26 additional tools to manage the
27 situation as they see fit."

28 Now, this letter is similar to a letter that your

1 department had proposed could have been used before the
2 Emergency Order; correct?

3 **DM MICHAEL KEENAN:** The -- I would say this; not
4 having seen -- not having seen both letters, I think in general,
5 yes. And I characterize this as exactly the kind of strategies
6 that we were aspiring to include in the strategic enforcement
7 strategy.

8 **MR. DANIEL CHOMSKI:** Okay. And so, again, just
9 so I completely understand you, the idea would be you would
10 issue a warning saying, "There could be potential infractions
11 coming if you don't leave"?

12 **DM MICHAEL KEENAN:** Yes.

13 **MR. DANIEL CHOMSKI:** Okay. And did the
14 Government of Ontario ever tell you why they did not issue any
15 warning letters before they brought in the Emergency Order?

16 **DM MICHAEL KEENAN:** I think the letter from
17 Deputy Minister Leblanc to me on February the 8th had, in a
18 certain fashion, an explanation.

19 **MR. DANIEL CHOMSKI:** Okay. But, specifically,
20 you weren't aware of any impediment that would have prevented
21 them from issuing letters of a similar nature before the
22 Emergency Order was brought in?

23 **DM MICHAEL KEENAN:** The -- we were -- I would say
24 that when we reached out to them on the 5th, the 6th, and the 7th,
25 we were searching for their engagement and creative solutions to
26 do something like sending a letter; "Did you know if you have
27 three *Highway Traffic Act* infractions like this, you could
28 lose..." And so we were hopeful of something like that.

1 **DM MICHAEL KEENAN:** Yes.

2 **MS. JESSICA BARROW:** The events in Toronto and
3 Quebec City, however, both occurred after the event in Ottawa
4 was well underway, is that right?

5 **DM MICHAEL KEENAN:** Yes, indeed.

6 **MS. JESSICA BARROW:** And so we've heard testimony
7 from various other witnesses to the effect that other
8 jurisdictions were able to take lessons from what occurred in
9 Ottawa and apply those lessons to their own planning. I take it
10 you would have no reason to disagree with that.

11 **DM MICHAEL KEENAN:** No.

12 **MS. JESSICA BARROW:** And many of the witnesses we
13 have heard from also testified that the tactics used by
14 protesters in Ottawa were unprecedented at the time of the
15 convoy's arrival in Ottawa, and I take it you similarly would
16 not have any reason to disagree with that evidence?

17 **DM MICHAEL KEENAN:** The tactics -- I'm not sure
18 if the tactics were unprecedented, but I would say the absolute
19 sheer scale and intensity by which they were applying these
20 tactics was, ---

21 **MS. JESSICA BARROW:** Fair enough.

22 **DM MICHAEL KEENAN:** --- by, I think, all
23 accounts, unprecedented ---

24 **MS. JESSICA BARROW:** Right.

25 **DM MICHAEL KEENAN:** --- in the history of the
26 country.

27 **MS. JESSICA BARROW:** And cities like Toronto and
28 Quebec City enjoyed a benefit that Ottawa did not, and that's

1 sort of a fuller appreciation of what the group was capable of,
2 what their intentions were, and what police tactics were and
3 were not going to be effective in respect of that; would you
4 agree with that?

5 **DM MICHAEL KEENAN:** I would generally agree with
6 that but I'm not an expert in the details of law enforcement and
7 tactics, but I think in general.

8 **MS. JESSICA BARROW:** Fair enough. And I think
9 you would also agree with me that the convoys and blockades in
10 the various jurisdictions were all quite different from one
11 another, in terms of their scope; is that fair?

12 **DM MICHAEL KEENAN:** I think my sense is there
13 were a lot of similarities, and there were some big ones in
14 multiple places, but they did vary city by city, and they varied
15 over time. It was a very dynamic and unpredictable series of
16 blockades and occupations.

17 **MS. JESSICA BARROW:** Of course. And if we look
18 specifically at Ottawa, I think you would agree with me that the
19 size of it, we can agree that there perhaps were similar
20 behaviours but if you look just at sort of the footprint of the
21 protest, it was much larger than any of the others; is that
22 fair?

23 **DM MICHAEL KEENAN:** I think that's fair, but I
24 didn't do any detailed analysis of footprints, but that seems
25 quite reasonable.

26 **MS. JESSICA BARROW:** Okay, thank you.

27 And so it wouldn't necessarily be fair to compare
28 the successful use of the strategies from the enforcement

1 strategy by some jurisdictions with what was occurring in
2 Ottawa, given the significant differences; is that fair?

3 **DM MICHAEL KEENAN:** I think so. The -- could you
4 repeat the question because I -- let me say this, and maybe this
5 answers the question.

6 **MS. JESSICA BARROW:** Sure.

7 **DM MICHAEL KEENAN:** If not, tell me it doesn't.
8 That there was no attempt in my witness statement and the
9 statement -- or in our enforcement strategy to say one city --
10 it was no attempt to actually grade the police responses, it was
11 simply an attempt to take stock of the challenge and help police
12 deal with unprecedented challenges that were overwhelming them.

13 **MS. JESSICA BARROW:** Of course. So your strategy
14 was intended to address the challenges that OPS was already
15 experiencing, and which others had not yet experienced. Is that
16 fair?

17 **DM MICHAEL KEENAN:** I would say to a degree,
18 except that it -- and it was sparked out of that really stark
19 assessment and SITREP that I participated in with the City of
20 Ottawa, so the spark was from Ottawa. But the intent of the
21 enforcement strategy and the tow truck strategy was national
22 because we saw this as a rapidly evolving national problem that
23 needed to be dealt with really from coast to coast, and it was
24 just a matter of one day to another whether -- where a blockade
25 or an occupation would hit.

26 **MS. JESSICA BARROW:** Right. And so if we look at
27 the specifics of the enforcement strategy, and I don't think we
28 need to turn it up, but I'm happy to if you think that's

1 necessary. It had the messaging component as well as the
2 enforcement component; correct?

3 **DM MICHAEL KEENAN:** Yes.

4 **MS. JESSICA BARROW:** And I think you've testified
5 with respect to the messaging component that the purpose of that
6 component was to communicate the illegality of the actions of
7 the protesters; right?

8 **DM MICHAEL KEENAN:** I think the illegality, which
9 a number of people involved in illegal activity were -- seemed
10 to confused about, but also the consequences and appealing to
11 their self-interest to end.

12 **MS. JESSICA BARROW:** Right. And just so that we
13 clear this up in terms of the purpose of that messaging, we've
14 heard a lot of evidence about PLTs. I don't know if you're
15 familiar with the work of PLTs.

16 **DM MICHAEL KEENAN:** I'm familiar with the term,
17 and I'm generally familiar with the work, but I'm not an expert.

18 **MS. JESSICA BARROW:** Fair enough. And so we
19 heard a lot of evidence about the purpose of the PLT Program and
20 the need for a measured response and consistent communication as
21 between sort of like corporate communications and what PLT are
22 engaging with on the ground. Do you have any reason to dispute
23 that evidence?

24 **DM MICHAEL KEENAN:** No.

25 **MS. JESSICA BARROW:** And so I take it that you
26 wouldn't necessarily say that the communication strategy that
27 you were proposing as part of this -- the strategy that we're
28 talking about here, that it was intended to overshadow the work

1 of PLTs?

2 **DM MICHAEL KEENAN:** The -- when you -- the
3 communication strategy, you're referring to the communication
4 component of the strategic enforcement strategy?

5 **MS. JESSICA BARROW:** That's correct.

6 **DM MICHAEL KEENAN:** It was based on a, I would
7 say, a premise that part of the solution was having a much more
8 comprehensive, much more robust communication with the
9 blockaders and occupiers to pierce through the fog of the event
10 so they understand what they're doing is illegal, has
11 significant consequences that could affect them, their
12 commercial viability, even their ability to go to the U.S. And
13 that our estimation from a strategic level, we weren't on the
14 street, was that there was a lot more to do to accomplish that
15 goal than what had been done to date, quite frankly, in any
16 city.

17 **MS. JESSICA BARROW:** And so you're talking sort
18 of a global strategy to all protesters and blockaders from coast
19 to coast that may be thinking of engaging in that activity or
20 already are engaging that activity. Is that fair?

21 **DM MICHAEL KEENAN:** That is fair, although it was
22 indexed off of Ottawa ---

23 **MS. JESSICA BARROW:** Right.

24 **DM MICHAEL KEENAN:** --- because of the acute
25 scale of the crisis in Ottawa and the problem definition that
26 came to us through the Ottawa situation.

27 **MS. JESSICA BARROW:** But I think you would agree
28 with me that given what we have heard about the importance of

1 PLT work, to the extent that PLT messaging needed to be
2 prioritised over the messaging that you're referencing, those on
3 the ground from an operational perspective would be the best
4 equipped to make that kind of decision?

5 **DM MICHAEL KEENAN:** I would -- I think I can
6 heartily agree with you because the purpose of the strategy was
7 not to second-guess any operational decision of police or
8 jurisdiction, it was to develop a strategic toolkit to give them
9 tools that they didn't have and needed in order to have a more
10 robust response to our -- to a crisis of unlawful behaviour that
11 they were struggling to get their arms around.

12 **MS. JESSICA BARROW:** So I think we're agreeing,
13 and perhaps just coming at it from slightly different
14 perspectives, but I think ---

15 **DM MICHAEL KEENAN:** I think so.

16 **MS. JESSICA BARROW:** Yeah. So basically what
17 you're saying, if I understand it, is this was a strategic
18 direction. Those that were operationally engaged on the ground
19 would be the ones making decisions about how and when to implement
20 the strategies that you were proposing?

21 **DM MICHAEL KEENAN:** Yes. And I think everybody
22 involved in the strategic enforcement strategy it was very clear
23 in their mind that we are not making operational decisions here,
24 we're building a strategic toolkit to allow police, in
25 developing their operational plans, to have stronger operational
26 plans. But it's up to the police in the development of their
27 plans to do that, not the sol gen and certainly not the
28 Transport officials.

1 **MS. JESSICA BARROW:** And of course, there's a
2 multitude of reasons for that, but one of those reasons may be
3 that those on the ground obviously would have far more
4 information about what's going on operationally than you would?

5 **DM MICHAEL KEENAN:** I think that's one -- that's
6 a, I would say, a very practical reason. There's also a very
7 strong principled reason. And we -- we're very careful about
8 this at Transport because we have a -- there are officials who I
9 oversee who do investigations and enforcement, and we have a
10 very clear system to ensure that those doing investigations and
11 enforcement have -- are not -- have the ability and the freedom
12 to make the judgements on the appropriate activities of
13 investigation and enforcement without the sort of being directed
14 by -- at the strategic level. And that principle we certainly
15 applied in the development of the strategic enforcement
16 strategy, and quite honestly there was a complete agreement on
17 that amongst all officials.

18 **MS. JESSICA BARROW:** Right. And I think as it
19 relates specifically to enforcement, and you've already
20 addressed this to some extent, there were specific challenges in
21 Ottawa around enforcement due to the sort of hostility of the
22 situation. You would agree with that I take it?

23 **DM MICHAEL KEENAN:** There were a lot of problems
24 in Ottawa, and the hostility to law enforcement was clearly one
25 of them based on the briefings we received from the City and the
26 Ottawa Police Service.

27 **MS. JESSICA BARROW:** Right. And if we -- I think
28 you indicated that one of the main goals of the strategy was to

1 identify sort of harsher penalties or identify those that
2 existed, and you thought or hoped that that would disincentivize
3 those from participating or encourage those who were
4 participating to leave. Is that right?

5 **DM MICHAEL KEENAN:** Yes.

6 **MS. JESSICA BARROW:** And obviously, we do know
7 that harsher penalties and more significant enforcement tools do
8 come into place, both through the Ontario legislation and the
9 federal legislation; right?

10 **DM MICHAEL KEENAN:** Yes, but I think it may be
11 helpful to point out that the development of the strategic
12 enforcement strategy was predicated on using -- initially on
13 using existing authorities ---

14 **MS. JESSICA BARROW:** Right.

15 **DM MICHAEL KEENAN:** --- and only -- and the early
16 versions of it, for example, all talked about *Highway Traffic*
17 *Act, Criminal Code*, et cetera, and then once Ontario made its
18 emergency declaration we folded into it the additional penalties
19 under the *Ontario Emergencies Act*.

20 **MS. JESSICA BARROW:** Right. And so the goal was
21 to either highlight those existing tools, or ultimately, once
22 there were new ones, to highlight those and hopefully there
23 would be a change of behaviour as a result.

24 I'm wrapping up.

25 **DM MICHAEL KEENAN:** Yes.

26 **MS. JESSICA BARROW:** But ultimately, I think you
27 would agree that although that may have had some impact on the
28 numbers in Ottawa, what we saw ultimately was a massive POU

1 operation that was required to remove the majority of the
2 protesters. Is that fair?

3 **DM MICHAEL KEENAN:** Yes.

4 **MS. JESSICA BARROW:** And so even though there
5 were more significant penalties available, the choices that were
6 being made by protesters were primarily not to leave the area.

7 **DM MICHAEL KEENAN:** I'm not sure I'd agree with
8 that because my sense, our sense, and again, I would defer to
9 law enforcement experts on this, but our sense is that there
10 gradually was a deployment of the strategic enforcement strategy
11 in the big sites in Windsor and in Ottawa, and that clear
12 communication of the fact that they were illegal activities and
13 that they had significant consequences, whether they were the
14 suspension of the CVORs or the freezing of the bank accounts,
15 successfully shrunk the footprint. And according to law
16 enforcement, so a lot of discussions with law enforcement during
17 this crisis, the shrinking of the footprint was essential to the
18 safe operation to return law and order to the streets.

19 So I think it actually did work and it did help
20 and it was integral, that would be my assessment. I'm happy to
21 defer to the law enforcement operational experts on that.

22 **MS. JESSICA BARROW:** Fair enough. I think all I
23 was getting at is that ultimately, I think other witnesses have
24 referred to it as the largest POU operation in Canadian history
25 was required to dismantle the protest notwithstanding that there
26 may have been some impact of the previous measures and that
27 ultimately hundreds of arrests had to occur to clear the area.
28 I take it you wouldn't disagree with that?

1 **DM MICHAEL KEENAN:** No, I agree with that. It
2 was clearly the biggest sort of security, national security
3 crisis in history with, like, a scale of unlawful activity that
4 I don't recall ever seeing. And so even with a shrunken
5 footprint, it was still an enormous challenge.

6 **MS. JESSICA BARROW:** Thank you. Those are my
7 questions.

8 **COMMISSIONER ROULEAU:** Okay. Next, if I could
9 call on the City of Windsor?

10 **--- CROSS-EXAMINATION BY MS. JENNIFER KING:**

11 **MS. JENNIFER KING:** Good evening. My name is
12 Jennifer King. I'm legal counsel to the City of Windsor. I
13 have -- my questions will be directed at Deputy Minister Keenan.

14 I'd like to start by clarifying the comment you
15 made at the end of Commission Counsel's questioning. I believe
16 that you stated that the Federal Government has broad federal
17 authority at the port of entry, but as you move off of the
18 Ambassador Bridge, you move from a broad federal toolset to
19 municipal bylaws? Did I get that right?

20 **DM MICHAEL KEENAN:** Yes, what I meant to say, if
21 I didn't say it completely, was that you move from a federal
22 authority over a trade infrastructure to local authority of
23 municipal bylaws and provincial jurisdiction, the *Highway*
24 *Traffic Act, Ontario Police Services Act, et cetera.*

25 **MS. JENNIFER KING:** Okay. And that's what I
26 wanted to clarify. Did you listen to Mr. Ossowski's testimony
27 earlier today?

28 **DM MICHAEL KEENAN:** I caught a bit of it. I

1 didn't catch the whole thing.

2 **MS. JENNIFER KING:** We reviewed a CBSA document
3 and Mr. Ossowski confirmed that CBSA officers are not designated
4 to enforce criminal arrest provisions and cannot directly engage
5 in enforcement operations at prohibited public assemblies, even
6 if they're on the bridge. Do you agree?

7 **DM MICHAEL KEENAN:** I would have to defer to
8 President -- former President Ossowski on the *Customs Act*. He's
9 an expert. I'm not.

10 **MS. JENNIFER KING:** Okay. And he also confirmed
11 that if any protest activity occurred on the Ambassador Bridge
12 property, the CBSA would rely on the police of jurisdiction to
13 respond. And again, you defer to him?

14 **DM MICHAEL KEENAN:** I would defer to him, but
15 that sounds right to me.

16 **MS. JENNIFER KING:** Okay. Would you agree ---

17 **DM MICHAEL KEENAN:** If it's helpful, I can make a
18 point that in exercising -- because this happens at Transport
19 quite frequently, in enforcing a federal statute, for example,
20 we have many -- 74 of them at Transport. The enforcement action
21 may be taken by a Transport official, but it may involve
22 something that requires a peace officer, and usually it's the
23 police of jurisdiction that carries out the police officer
24 function. So it could be in enforcing a federal statute, but
25 it's still police of local jurisdiction.

26 **MS. JENNIFER KING:** Thank you for that
27 clarification. Would you agree that the protests revealed an
28 issue with coordination and collaboration among all three levels

1 of government with respect to their respective authorities and
2 responsibilities related to border infrastructure?

3 **DM MICHAEL KEENAN:** Yes, I would.

4 **MS. JENNIFER KING:** And it revealed an issue with
5 ensuring that sufficient resources are in the hands of the local
6 first responders responding to this unprecedented event on the
7 ground?

8 **DM MICHAEL KEENAN:** I think it revealed an issue
9 of resources, authorities, and practice.

10 **MS. JENNIFER KING:** Okay. I have a few questions
11 about the Strategic Enforcement Strategy. This strategy
12 recognized that given the complexity of the occupations and
13 blockades, safe resolution requires three levels of government
14 to collaborate; right?

15 **DM MICHAEL KEENAN:** That was the -- yes, and that
16 was the objective of the strategy.

17 **MS. JENNIFER KING:** Okay. And you described
18 earlier to Commission Counsel the process that went into
19 developing this draft as involving extensive discussions and
20 consultations with federal and provincial partners. Did you
21 consult with municipalities?

22 **DM MICHAEL KEENAN:** We did not. We consulted
23 with our provincial partners. We consulted a little bit,
24 probably, with the City of Ottawa, because there was a
25 particular tripartite process. But in general, we did not
26 consult directly with municipal partners. And we didn't -- and
27 we consulted beyond the RCMP and the occasional discussion with
28 the OPP. We didn't consult directly with police either. We

1 left both of those to our provincial colleagues.

2 **MS. JENNIFER KING:** Are you aware of whether your
3 provincial colleagues reached out to their municipal partners
4 and asked for input?

5 **DM MICHAEL KEENAN:** I'm not.

6 **MS. JENNIFER KING:** Okay. Was the strategy
7 shared with Windsor after it was finalized on or about February
8 13th?

9 **DM MICHAEL KEENAN:** It would not -- it was not
10 shared by Transport Canada. We were relying on our provincial
11 partners to share it as they saw fit, and I don't know whether
12 anybody from the Province of Ontario shared it with the City of
13 Windsor.

14 **MS. JENNIFER KING:** Well the strategy refers to
15 communication and communication that should be coming from
16 municipalities. Did you ask your provincial partners to share
17 the strategy with the City of Windsor?

18 **DM MICHAEL KEENAN:** We asked them to share with
19 appropriate partners, but I don't recall specifying that they
20 should share it with the City of Windsor.

21 **MS. JENNIFER KING:** Okay. I haven't seen any
22 evidence that this was shared with the City after it was
23 finalized.

24 Mr. Keenan, can you help clarify for me which
25 Federal Ministry is responsible for Emergency Management with
26 respect to critical infrastructure like the Ambassador Bridge?

27 **DM MICHAEL KEENAN:** The -- if you break that into
28 three parts, Emergency Management in general is Public Safety.

1 **MS. JENNIFER KING:** Okay.

2 **DM MICHAEL KEENAN:** If you -- generally speaking,
3 Critical Infrastructure, again, Public Safety.

4 When you get into transport infrastructure like
5 the Ambassador Bridge, Transport Canada. And that's as
6 specified in the Federal Emergency Response Plan.

7 **MS. JENNIFER KING:** Right. So does Transport
8 Canada have a plan for prevention, mitigation, response, and
9 recovery with respect to the Ambassador Bridge and other border
10 infrastructure?

11 **DM MICHAEL KEENAN:** We have plans of a different
12 level for different points of critical trade infrastructure like
13 the Ambassador Bridge. The issue is that -- and we've dealt
14 with a number of safety and security issues over the years with
15 the Ambassador Bridge, and we're very vigilant because of all
16 the numbers that my colleague, Christian, outlined in terms of
17 its importance.

18 What we haven't done is dealt with the kind of --
19 and worked through the kind of crisis you've seen here, which is
20 the operation of the bridge is impaired not because of something
21 that happens on it, but something that happens on the streets of
22 Windsor.

23 And I don't want to guess your next question, but
24 I would say yes, that represents a gap that needs some work.

25 **MS. JENNIFER KING:** Okay. Well that was going to
26 be my last question. I noticed in your witness summary that you
27 conclude by recommending that a national legislative regime that
28 can be used to protect critical trade and transportation

1 infrastructure on an ongoing basis may be desirable. And do you
2 maintain this recommendation?

3 **DM MICHAEL KEENAN:** Yes, I -- as I mentioned
4 earlier today, I think there is an authorities gap here that
5 bears some analysis, and ideally some resolution. And really,
6 aligned to what you said.

7 **MS. JENNIFER KING:** Okay. And so in addition to
8 an authorities gap, would you also agree with me that in
9 addition to a national legislative regime, a specific emergency
10 management plan should be developed by all three levels of
11 government for international border crossings?

12 **DM MICHAEL KEENAN:** I think there is merit. I
13 wouldn't jump to that specificity, but I would agree with you
14 that there is -- and we've seen this now in two or three
15 different events, the crisis that this inquiry is on, the rail
16 blockades of 2020, even the outage of the rail lines that cut
17 Vancouver off to the rest of the country. I think there is a
18 need for better plans that include all levels of government in
19 those plans in advance. And so I think it's an issue for the
20 Ambassador Bridge, which is one of the most -- probably the most
21 important trade crossing, but it's a broader issue across the
22 country. So in that sense, I would say yes.

23 **MS. JENNIFER KING:** And just to inject into this
24 too, the Commission and the Commissioner has been hearing that,
25 you know, Windsor isn't just a pathway to the bridge, it's a
26 community, and in particular, the area around the bridge and
27 Huron Church Road, Huron Church Road is a municipal road, is a
28 community of business and schools, the University of Windsor.

1 And so would you agree with Windsor that this planning has to
2 include collaboration with the local governments and authorities
3 who are also protecting the community around that
4 infrastructure?

5 **DM MICHAEL KEENAN:** Yes, I'd fully agree, and
6 that's very well put.

7 **MS. JENNIFER KING:** Thank you very much. Those
8 are my questions.

9 **COMMISSIONER ROULEAU:** Okay. Next, the
10 Government of Alberta, please.

11 **--- CROSS-EXAMINATION BY MS. STEPHANIE BOWES:**

12 **MS. STEPHANIE BOWES:** Good afternoon. For the
13 record, my name is Stephanie Bowes. I'm counsel for the
14 Province of Alberta.

15 Deputy Minister, my questions are going to be
16 directed to you as well today.

17 I believe your evidence earlier today was that
18 there was a failure to find a solution to the towing challenges
19 as of February 13th; do I have that right?

20 **DM. MICHAEL KEENAN:** Yes.

21 **MS. STEPHANIE BOWES:** But there was still work
22 being done on the 13th to find a solution, wasn't there?

23 **DM. MICHAEL KEENAN:** Yes.

24 **MS. STEPHANIE BOWES:** And I'll ask that the Clerk
25 please take you to Document ALB00001429.

26 And this is an email from Mr. Dakalbab who --
27 from Public Safety Canada to people in Alberta, Ontario, and
28 Manitoba, the three provinces experiencing border blockades, on

1 Sunday, February 13th. And in this email, he indicates that he
2 and Transport Canada were looking to have a small group
3 discussion on the work that they were:

4 "...advancing to ensure a clear
5 escalation protocol is in place to
6 remove trucks blocking roads and
7 bridges."

8 And then you'll see in the second paragraph it
9 indicates that there would be a presentation of the strategy
10 before moving it up the chain for approvals.

11 So I take it that at this time Public Safety
12 Canada and Transport Canada had developed the strategy, that
13 they were checking in with their provincial partners, and then
14 they were going to seek the approvals that they needed; is that
15 your understanding?

16 **DM. MICHAEL KEENAN:** Not quite. I think this --
17 I recall this meeting and it was not so much checking in and
18 setting something up for approvals. It was -- even though it
19 may -- I mean, Talal may have said that somewhere, but in our
20 minds, in the meetings -- in the mind of Kevin, who was
21 reporting to me before and after this, it was advancing the
22 discussions on the tow truck strategy, the six-part strategy
23 that's in evidence. And it was continuing to try and find a
24 solution to the inability to secure the services of the heavy
25 tow trucks.

26 **MS. STEPHANIE BOWES:** Okay.

27 **DM. MICHAEL KEENAN:** So they -- we weren't really
28 looking for approval; we were looking for -- we were continuing

1 to looking for a solution to operationalize the strategy.

2 **MS. STEPHANIE BOWES:** So is it fair to say that
3 it was discussions to come up with those strategies, still?

4 **DM. MICHAEL KEENAN:** No, the -- there was a
5 strategy, a six-part strategy that had been in play right
6 through the week, but it was trying to find a way through the
7 obstacles to implementing the strategy. And the obstacle was
8 the inability to secure service from the heavy tow truck
9 operators.

10 **MS. STEPHANIE BOWES:** Okay. And so, then, I'll
11 ask that we turn to PB.CAN.00000866.

12 And this is the tow truck vehicle removal
13 strategy you're talking about, is that right?

14 **DM. MICHAEL KEENAN:** Yes. I think one iteration
15 had six parts, but here it obviously has five.

16 **MS. STEPHANIE BOWES:** And it says that this is
17 the "Working Draft" on February 13th. You understand that on the
18 13th it was a five-part plan; is that fair to say?

19 **DM. MICHAEL KEENAN:** Yes.

20 **MS. STEPHANIE BOWES:** Okay. And I understand
21 that nowhere in this document does it contemplate the use of the
22 Federal *Emergencies Act*; is that correct?

23 **DM. MICHAEL KEENAN:** I think that is correct.

24 **MS. STEPHANIE BOWES:** Okay.

25 And I'd just like you scroll down, if you could
26 Mr. Clerk, to page 2, and we'll go to item number 4.

27 This is the "Tow vehicle to a secure location"
28 step. And if we take a look at d:

1 "If tow trucks are available ([example]
2 Alberta is already procuring them) but
3 operators are not, identify and deploy
4 municipal, provincial and federal
5 (including CAF) employees for
6 specialized skills"

7 Do you know if, as of this time, so on February
8 13th, any work had been undertaken to identify federal employees
9 that may have skills to operate tow equipment?

10 **DM. MICHAEL KEENAN:** Yes.

11 **MS. STEPHANIE BOWES:** What work was done to
12 identify those employees?

13 **DM. MICHAEL KEENAN:** The people at Transport
14 Canada working on this, Kevin Brosseau, Aaron McCrorie, Melanie
15 Vanstone, had done some -- had been -- had consulted with some
16 colleagues and were scoping out to try to identify a pathway to
17 building a roster of people with skills.

18 They quickly -- I should say that some of this
19 came because the day before there was a series of calls with
20 Alberta, where Alberta officials that come to us, and that was a
21 -- on the 12th, 11th or 12th; I think it was the 12th. And they
22 had just bought, I think two, but I can't remember how many
23 heavy tow trucks. And they realized that they couldn't do
24 anything with them because they didn't have the skilled
25 operators, so they were coming to us to see if through the CAF
26 or anywhere we could supply skilled operators.

27 And so there was a whole conversation over the
28 12th and 13th trying to figure out can we find skilled operators

1 for heavy tow trucks? And the conclusion, at some point on the
2 13th, was no, it wasn't a viable -- you don't -- it turns out
3 that you don't have, in the government, people who have that
4 particular skillset.

5 **MS. STEPHANIE BOWES:** And did that include the
6 CAF?

7 **DM. MICHAEL KEENAN:** Yes, I believe it did.

8 **MS. STEPHANIE BOWES:** Okay.

9 **DM MICHAEL KEENAN:** But the exact scoping and who
10 exactly was engaged in that was something that my team did.

11 **MS. STEPHANIE BOWES:** Okay.

12 Now, I'd like to look at document
13 SSM.CAN.00000410.

14 And the second email on this page is an email
15 from you to Minister Alghabra, on the early morning of February
16 15th, with the subject line "Coutts". You note that there was
17 great progress by the RCMP in clearing and opening, and then
18 note some of the comments about what happened at the protest
19 sites.

20 I take it that your understanding on the early
21 morning of February 15th was that the clearing of vehicles from
22 the protest around Coutts was achieved without the use of any
23 powers under the *Emergencies Act*, is that right?

24 **DM. MICHAEL KEENAN:** Yes, that's my
25 understanding.

26 **MS. STEPHANIE BOWES:** And do you know if that was
27 also Minister Alghabra's understanding, on the basis of this
28 email?

1 **DM. MICHAEL KEENAN:** I can't speak to Minister
2 Alghabra's understanding, but I think the email is relatively
3 clear and speaks for itself.

4 **MS. STEPHANIE BOWES:** All right. Thank you,
5 those are my only questions today.

6 **COMMISSIONER ROULEAU:** Thank you.

7 Next is the Government of Saskatchewan.

8 **--- CROSS-EXAMINATION BY MR. MITCH McADAM:**

9 **MR. MITCH McADAM:** Good afternoon. My name is
10 Mitch McAdam, and I'm one of the lawyers acting for the
11 Government of Saskatchewan.

12 Can you hear me?

13 **COMMISSIONER ROULEAU:** We can, but your picture
14 hasn't come up yet, so I'm not sure what's happening.

15 **MR. MITCH McADAM:** I'm sorry, Commissioner. I am
16 clicking on the link, but -- ah, there, it seems to have come
17 on.

18 **COMMISSIONER ROULEAU:** Yeah. There you are.

19 **MR. MITCH McADAM:** Okay.

20 **COMMISSIONER ROULEAU:** In living colour, so go
21 ahead.

22 **MR. MITCH McADAM:** I think I had a sticky mouse.

23 **COMMISSIONER ROULEAU:** Okay.

24 **MR. MITCH McADAM:** Good afternoon, sirs. I am
25 Mitch McAdam, one of the lawyers for the Government of
26 Saskatchewan, and I have a couple of questions that I'd like to
27 ask you, Mr. Keenan, about some of the FPT meetings that were
28 being held in February concerning the protests and the

1 blockades.

2 To start with, you indicated this morning that
3 your department was regularly in contact with its provincial and
4 territorial partners during this time, and that that was
5 particularly with respect to preparing the strategic enforcement
6 strategy that we've heard about today; that's correct, isn't it?

7 **DM. MICHAEL KEENAN:** Yes, it is.

8 **MR. MITCH McADAM:** And is it correct, sir, that
9 this work began with the Policy and Planning Support Committee,
10 which is an ADM-level FPT Committee? Is that right; it began
11 with that committee or sort of became a spinoff of it?

12 **DM. MICHAEL KEENAN:** It -- the work happened in
13 through both, I would -- bi-lateral meetings of calls at various
14 levels with individual provinces and multilateral ones, and also
15 small group ones, and they all mixed together. So I think the
16 first couple of calls were bilaterals, but one of the first full
17 engagement of all jurisdictions was the PPSC. And I think the
18 first one was on the 6th of February.

19 **MR. MITCH McADAM:** Okay. And those are meetings
20 that you would ordinarily not attend, right?

21 **DM. MICHAEL KEENAN:** No, they would be -- those
22 meetings were being -- the lead Transport Canada participant,
23 was either Aaron McCrorie, the Associate Assistant Deputy
24 Minister of Safety and Security; or Kevin Brosseau, the Senior
25 Assistant Deputy Minister of Safety and Security.

26 **MR. MITCH McADAM:** Okay.

27 And they would be speaking for your department at
28 that meeting; right?

1 **DM MICHAEL KEENAN:** Yes.

2 **MR. MITCH McADAM:** And they would generally
3 report to you on what happened at those meetings?

4 **DM MICHAEL KEENAN:** Yes.

5 **MR. MITCH McADAM:** And I take it that one of the
6 purposes of those meetings in early February was to gather
7 information on the powers and the tools that the provinces had
8 to respond to the protests and blockades that were happening in
9 their jurisdictions; correct?

10 **DM MICHAEL KEENAN:** Yes, that was in -- that
11 combined -- that combined use of all powers in a coordinated
12 manner was the essence of the strategic enforcement strategy.

13 **MR. MITCH McADAM:** Okay. And I understand, sir,
14 that there was a Deputy Minister level meeting on February 7th
15 that you attended. Do you recall that meeting?

16 **DM MICHAEL KEENAN:** Yes.

17 **MR. MITCH McADAM:** And I believe that Deputy
18 Minister Stewart from Public Safety Canada attended that meeting
19 as well; correct?

20 **DM MICHAEL KEENAN:** Yes.

21 **MR. MITCH McADAM:** And I think you said this
22 morning that you began to lay out the strategic enforcement
23 strategy at that meeting; correct?

24 **DM MICHAEL KEENAN:** Yes, that's correct.

25 **MR. MITCH McADAM:** And you'll agree with me that
26 the Federal *Emergencies Act* was not discussed at that meeting;
27 was it?

28 **DM MICHAEL KEENAN:** That's correct. It was not

1 discussed.

2 **MR. MITCH McADAM:** And, sir, there was another
3 FPT meeting on Friday, February 11th that was attended by Aaron
4 McCrorie from Transport Canada. Are you aware of that meeting?

5 **DM MICHAEL KEENAN:** Yes, I am.

6 **MR. MITCH McADAM:** Okay. And my understanding is
7 that at that meeting, Mr. McCrorie laid out a more fulsome
8 version of the strategic enforcement strategy; is that correct?

9 **DM MICHAEL KEENAN:** Yes, in addition, the tow
10 truck strategy.

11 **MR. MITCH McADAM:** Okay. And at that time, the
12 strategy was looking at a coordinated and consistent approach to
13 enforcement based on existing municipal provincial and federal
14 laws; correct?

15 **DM MICHAEL KEENAN:** Yes, that's right.

16 **MR. MITCH McADAM:** Okay. And again, at that
17 meeting, there was no discussion of potentially invoking the
18 Federal *Emergencies Act*; was there?

19 **DM MICHAEL KEENAN:** No.

20 **MR. MITCH McADAM:** Mr. Keenan, my friend from
21 Alberta mentioned a couple of minutes ago another meeting that
22 was held on February 13th that was attended by Mr. Brousseau from
23 your Ministry along with representatives from Ontario, Manitoba,
24 Alberta and the RCMP. And you indicated that you are aware of
25 that meeting; correct?

26 **DM MICHAEL KEENAN:** Yes.

27 **MR. MITCH McADAM:** And I believe that that
28 meeting was described as one involving the provinces that were

1 most affected by the protests; would you agree with that?

2 **DM MICHAEL KEENAN:** Yes, in the sense that they
3 were the provinces -- the places in Canada that were in most
4 desperate need of heavy tow trucks showing up.

5 **MR. MITCH McADAM:** Okay. And you would also
6 agree with me that at that meeting, Assistant Deputy Minister
7 Brousseau did not raise the possibility of the Federal
8 *Emergencies Act* being invoked with those provinces; did he?

9 **DM MICHAEL KEENAN:** No, I don't believe he did.

10 **MR. MITCH McADAM:** Okay. Now, Mr. Keenan, would
11 you agree with me that the provincial and territorial folks that
12 people from your department were meeting with during this time
13 all had expertise with respect to existing tools available to
14 law enforcement?

15 **DM MICHAEL KEENAN:** For the purpose of this, yes,
16 I would.

17 **MR. MITCH McADAM:** Yeah. And so would you agree
18 with me that that would have been a good forum in which to raise
19 issues about potential gaps in existing legal authorities to
20 deal with the blockades and the protests?

21 **DM MICHAEL KEENAN:** Well, that forum did -- you
22 used the word gaps. I would say that forum and that just -- the
23 purpose of that forum and that discussion was to plum the --
24 define the limits of existing authorities and make the most use
25 of them. So in that sense, they were useful in understanding
26 where existing authorities ended with respect to the needed
27 tools to deal with the national crisis.

28 **MR. MITCH McADAM:** Okay. But the focus of those

1 meetings was on existing tools. Nobody from ---

2 **DM MICHAEL KEENAN:** Yes.

3 **MR. MITCH McADAM:** --- your Ministry asked
4 provincial officials at those meetings to identify gaps so that
5 that information could feed into potentially invoking the
6 Federal *Emergencies Act*. That wasn't the purpose of the
7 meetings; was it?

8 **DM MICHAEL KEENAN:** It was not the purpose of the
9 meetings, and it would be a little bit beyond our remit to lead
10 a consultation on the *Emergencies Act* because that's the
11 responsibility of the Minister of Public Safety.

12 **MR. MITCH McADAM:** Okay. But you would agree
13 with the people that were attending these meetings would have
14 had some expertise and could have provided some valuable input
15 into determining what those gaps were?

16 **DM MICHAEL KEENAN:** I think the meetings that --
17 there was a lot of meetings. Some of them combined the senior
18 officials from Public Safety and Sol Gen's and Transport. Some
19 of them were just Transport officials. I think the ones that
20 were just Transport officials would have been less useful for
21 that purpose.

22 **MR. MITCH McADAM:** Okay. And would you agree
23 with me, Deputy Minister Keenan, that at those meetings, no
24 provincial representatives were requesting the federal
25 government invoke the *Emergencies Act*; were they?

26 **DM MICHAEL KEENAN:** I don't think the *Emergencies*
27 *Act* came up one way or the other.

28 **MR. MITCH McADAM:** Okay. Sir, I'd like to turn

1 to a slightly different matter now. Just want to make sure that
2 I understand your testimony from earlier this afternoon. I
3 believe that you indicated that your department started to work
4 on the *Emergencies Act* about February the 10th. Is that correct?

5 **DM MICHAEL KEENAN:** Thereabouts.

6 **MR. MITCH McADAM:** Yeah. And then I think you
7 said that the work ramped up over the next couple of days and
8 that by February 13th, I think you said that your department was
9 well into the discussion of the *Emergencies Act*; is that
10 correct?

11 **DM MICHAEL KEENAN:** I think well into the
12 discussion of the *Emergencies Act* would be exactly the right
13 characterization. That starting on the 10th, officials of
14 Transport Canada went from focussing on just one thing, the
15 track one, what can we do under existing authorities, and they
16 started doing some thinking about potential options if there was
17 additional authorities under the *Emergencies Act*. That is --
18 and so -- and that work continued. That's a little different
19 than being full on into the development of the *Emergencies Act*.
20 The locus of that activity was in Public Safety and Justice.
21 And so we certainly did some work, but we were not the locus of
22 activity on that.

23 **MR. MITCH McADAM:** Okay. So but it would be
24 accurate to say that by February the 10th, the *Emergencies Act*
25 was on the table for your department and your department was
26 doing some work on it?

27 **DM MICHAEL KEENAN:** Yes, because it had -- it was
28 part of what was beginning to be a track two set of options, and

1 if the track one set was not going to work.

2 **MR. MITCH McADAM:** Okay. And, Deputy Minister
3 Keenan, you would agree with me that no one from your department
4 consulted with any of your PT partners about the invocation of
5 the *Emergencies Act* before the first Minister's meeting that
6 occurred on February 14th?

7 **DM MICHAEL KEENAN:** I would agree with that
8 statement.

9 **MR. MITCH McADAM:** Okay. And the first time that
10 you would have talked to your PT partners about the Federal
11 *Emergencies Act* was when you did the briefings to advise them of
12 what the powers were and what the authorities were that were
13 contained in the Act that happened after the Act was invoked;
14 correct?

15 **DM MICHAEL KEENAN:** In -- it's -- for anything
16 above a passing reference to the *Emergencies Act*, any
17 substantive discussion with PTs happened from a Transport
18 perspective. It happened in terms of on the 15th and 16th in
19 terms of informing them on the details of the regulations. The
20 consultations, we were not involved in the consultations on the
21 *Emergencies Act* beforehand.

22 **MR. MITCH McADAM:** Okay. Thank you, sir. Those
23 are all of my questions.

24 **COMMISSIONER ROULEAU:** Okay. Thank you.
25 Next I'd like to call on the Ontario Provincial
26 Police.

27 **MS. JINAN KUBURSKI:** Good afternoon,
28 Commissioner. Jinan Kuburski for the Ontario Provincial Police,

1 and I have no questions for this panel. Thank you very much.

2 **COMMISSIONER ROULEAU:** Thank you. Next I'd like
3 to call on former Chief Sloly's counsel.

4 **--- CROSS-EXAMINATION BY MR. NIKOLAS De STEFANO:**

5 **MR. NIKOLAS De STEFANO:** Good afternoon. I just
6 have a couple of questions for Mr. Keenan.

7 So you testified earlier that the Ministry became
8 aware of the convoy heading to -- oh, sorry, I have to introduce
9 myself. I'm Nikolas De Stefano for former Chief Sloly.

10 You testified earlier that you became aware of
11 the convoy directing itself towards -- your Ministry became
12 aware of the convoy directing itself towards Ottawa in mid
13 January or around the week of January 20th; correct?

14 **DM MICHAEL KEENAN:** Yes, I think somebody in
15 Transport Canada became aware around the 17th. I became aware
16 closer to the 20th.

17 **MR. NIKOLAS De STEFANO:** And they were tracking
18 open source media and social media and stuff like that?

19 **DM MICHAEL KEENAN:** Yes, and engaging with the
20 trucking industry.

21 **MR. NIKOLAS De STEFANO:** Right. And around
22 January 28th, engaging with DMOC about possible enforcement tools
23 and enforcement methods?

24 **DM MICHAEL KEENAN:** I think that the DMOC
25 discussion started a little bit before January 28th, and they
26 didn't start out on enforcement tools and methods, they started
27 out understanding what this is and what -- and the scope of the
28 potential threat to Canada.

1 **MR. NIKOLAS De STEFANO:** Right. So in any event,
2 at that point they weren't working on the sort of strategy that
3 they began working on on February 3rd, but something like the
4 strategic enforcement strategy wouldn't have been contemplated
5 at that point; correct?

6 **DM MICHAEL KEENAN:** Strategic enforcement
7 strategy came out of our assessment of an acute problem in
8 Ottawa that we became fully aware of in terms of how serious it
9 was from that meeting chaired by Deputy Minister Stewart.

10 **MR. NIKOLAS De STEFANO:** Right. And it would be
11 fair to say, then, that the reason why a strategy like that
12 wasn't contemplated at the time is that just sort of from the
13 available information that the Ministry had, it just didn't seem
14 like it would be necessary at that point?

15 **DM MICHAEL KEENAN:** No, I think -- that's not the
16 reason why not. The reason why not is that until that briefing
17 of the 3rd, we didn't understand that this was a problem that
18 was beyond the capacity of the police service to address. And
19 they needed help, and we tried to provide help.

20 **MR. NIKOLAS De STEFANO:** Right. And the types of
21 things that you saw were that fines were ineffective, protesters
22 weren't responding to the fines; correct? Or that you were
23 briefed on?

24 **DM MICHAEL KEENAN:** Yes, exactly.

25 **MR. NIKOLAS De STEFANO:** And that it was
26 impossible for the service to obtain tow trucks?

27 **DM MICHAEL KEENAN:** Yes.

28 **MR. NIKOLAS De STEFANO:** And so you sort took

1 those -- went away from that meeting and considered those
2 difficulties and you spent I think 10 days, about, discussing
3 with partners about how you could come up with solutions to
4 those issues; correct?

5 **DM MICHAEL KEENAN:** Yes.

6 **MR. NIKOLAS De STEFANO:** And ultimately, around
7 the 13th, there was still no sort of easy solution from the
8 point of view of the Ministry of how tow trucks could be
9 obtained for police services; correct?

10 **DM MICHAEL KEENAN:** Yeah, there were two
11 strategies at play, enforcement strategy and tow truck strategy,
12 and in terms of the tow trucks, yes, you're right, after 10 days
13 of trying to find a solution to the problem we had failed to
14 find one.

15 **MR. NIKOLAS De STEFANO:** So fair to say very
16 difficult for the Ministry, it would have been very difficult
17 for a police service and for a police chief as well to resolve
18 that issue?

19 **DM MICHAEL KEENAN:** Yes. In fact, it's
20 interesting because our assessment was from the 3rd, yes, they
21 have a problem securing tow trucks. Surely if we think about
22 this and kind of get smart and strategic and use the right
23 incentives and strategy we'll be able to solve it. That was our
24 view on the 4th. After having worked on it for almost 10 days,
25 our conclusion was this was in essence an impossible problem to
26 solve with the tools we had.

27 **MR. NIKOLAS De STEFANO:** And then just a couple
28 of quick questions about the strategic enforcement strategy.

1 I'm not going to pull it up, but ultimately what you had landed
2 on on the 13th was that the strategy had to implicate, of course
3 police, but provincial transport authorities, provincial
4 Solicitors General and attorneys general, federal governments
5 and provincial governments and municipal governments; correct?

6 **DM MICHAEL KEENAN:** Yes.

7 **MR. NIKOLAS De STEFANO:** And I believe that one
8 of the first lines of the strategy was that given the complexity
9 of ongoing multi-day occupations plus blockades safe resolution
10 requires three levels of government? Do you agree with that?

11 **DM MICHAEL KEENAN:** Yes.

12 **MR. NIKOLAS De STEFANO:** Because you understood
13 that given the complexity and the nature of the challenges that
14 local police forces were facing they were not going to be in a
15 position to resolve situations like what we saw in Ottawa by
16 themselves?

17 **DM MICHAEL KEENAN:** I would say this, that there
18 was a national -- that was written with a -- Ottawa was a really
19 big part of the problem, but it was a national problem and there
20 was a national scale of blockades and occupations and unlawful
21 behaviour that was going to require a coordinated -- it was
22 unprecedented, was eclipsing the capacity of police, clearly in
23 Ottawa, but not just in Ottawa, and was going to require a
24 coordinated strategic approach to overcome.

25 **MR. NIKOLAS De STEFANO:** Okay. Those are my
26 questions. Thank you.

27 **COMMISSIONER ROULEAU:** Thank you.

28 Next is the Windsor Police Service.

1 **MS. HEATHER PATTERSON:** Good evening. Heather
2 Patterson for the Windsor Police Service. Our questions have
3 been asked and answered, and we have nothing further for this
4 panel. Thank you.

5 **COMMISSIONER ROULEAU:** Thank you.
6 The Ottawa Coalition of Residents and Businesses?

7 **MS. CHRISTINE JOHNSON:** Good evening,
8 Commissioner. Can you see and hear me?

9 **COMMISSIONER ROULEAU:** Yes.

10 **MS. CHRISTINE JOHNSON:** I am happy to report --
11 Christine Johnson for the Ottawa Coalition. I'm happy to report
12 that all of our questions have also been answered and we have no
13 further questions. Thank you.

14 **COMMISSIONER ROULEAU:** Okay.

15 Next, I call on the Democracy Fund, JCCF.

16 **--- CROSS-EXAMINATION BY MR. HATIM KHEIR:**

17 **MR. HATIM KHEIR:** Good evening. My name's Hatim
18 Kheir. I'm counsel for the Justice Centre for Constitutional
19 Freedoms. My answers will be focussed on you, Deputy
20 Minister Keenan.

21 So you're aware that the Windsor protest was
22 cleared on the 13th of February; correct?

23 **DM MICHAEL KEENAN:** On the 13th, I -- the
24 Ambassador Bridge opened the 14th, so I think it cleared sort of
25 overnight between the 13th and 14th.

26 **MR. HATIM KHEIR:** Right. And are you aware that
27 the Windsor Police actually turned away tow trucks from the
28 United States because by the 13th they were already satisfied

1 that the company in Windsor was up to the task?

2 **DM MICHAEL KEENAN:** I know there were tow trucks
3 that came across the bridge. I wasn't aware of the details of
4 which tow trucks were used in the Windsor operation.

5 **MR. HATIM KHEIR:** Okay. But you were aware that
6 they were able to obtain tow trucks to do what they had to do?

7 **DM MICHAEL KEENAN:** Yes.

8 **MR. HATIM KHEIR:** Okay. And with respect to
9 Ottawa, we've heard from other witnesses that the OPP obtained
10 tow trucks, so much so that the OPS Incident Commander felt that
11 by February 13th they were good. You -- if I recall correctly,
12 in earlier in your testimony you stated you weren't aware of
13 that; right?

14 **DM MICHAEL KEENAN:** No, we had been working on
15 the tow truck strategy for 10 days and had engaged a lot of
16 partners, and nobody had provided any information like that to
17 us in the course of that work.

18 **MR. HATIM KHEIR:** Now, you stated that around the
19 10th going forward the *Emergencies Act* was being discussed;
20 correct?

21 **DM MICHAEL KEENAN:** Options under the *Emergencies*
22 *Act* began to be considered starting the 10th, yes.

23 **MR. HATIM KHEIR:** Right. And -- I mean, you'd
24 agree with me that the *Emergencies Act* is an extraordinary
25 power; right?

26 **DM MICHAEL KEENAN:** Extraordinary power, yes.

27 **MR. HATIM KHEIR:** And if alternatives are
28 available, they should be, as a matter of policy, be used first;

1 right?

2 **DM MICHAEL KEENAN:** I -- I'm not an expert on the
3 Act, but my -- the working framework I have is exactly that. If
4 you can -- it's not meant to be used if you can solve the crisis
5 using any existing authorities.

6 **MR. HATIM KHEIR:** And to that effect, it would be
7 important to be aware of what alternatives were available and
8 workable?

9 **DM MICHAEL KEENAN:** Alternatives of what to what,
10 sir?

11 **MR. HATIM KHEIR:** Whatever it is is sought to be
12 done under the Act, if there's an alternative under existing law
13 or that can be done without the use the Act, it would be
14 important to be up-to-date on that; right?

15 **DM MICHAEL KEENAN:** Yes.

16 **MR. HATIM KHEIR:** And -- so given that you --
17 your agency as a whole wasn't aware that the OPP had tow trucks,
18 what steps were actually taken to get that information from the
19 OPP, knowing that they were actually looking into the issue
20 themselves?

21 **DM MICHAEL KEENAN:** So over the -- from the 4th
22 to the 13th, sort of exhaustive steps of working with our
23 federal partners, our federal policing partners, procurement
24 partners, security partners, all provinces, small caucus groups
25 of provincial officials, and working through trying to find a
26 way to execute the five point plan and the tow truck strategy.
27 So I would say in short summary there were probably 40
28 engagements by myself and my senior officials with partners

1 trying to sort of unlock the tow truck strategy. So I would
2 describe it as pretty exhaustive effort right up to and
3 including meetings on the 13th.

4 **MR. HATIM KHEIR:** So my understanding is that
5 there was a DMOC meeting on the 13th?

6 **DM MICHAEL KEENAN:** Yes.

7 **MR. HATIM KHEIR:** Where the *Emergencies Act* was
8 discussed?

9 **DM MICHAEL KEENAN:** Yes.

10 **MR. HATIM KHEIR:** And -- so going into it, your
11 role would be to provide Transport Canada's perspective on the
12 use of those -- on emergency powers?

13 **DM MICHAEL KEENAN:** Yes.

14 **MR. HATIM KHEIR:** So prior to going into that
15 meeting, did someone from your office just give a call to a --
16 you know, a contact at the OPP to just see how the tow truck
17 issue was going?

18 **DM MICHAEL KEENAN:** There had been multiple calls
19 and multiple exchanges with a lot of partners right up to the
20 13th, and I think even perhaps after that DMOC meeting. Because
21 we had had a meeting with -- the Transport Canada ADM had
22 convened a meeting with the RCMP partners, I think Public
23 Service and Procurement Canada, solicitor general and I think
24 Transport officials in Ontario, Manitoba, and Alberta continuing
25 to work and find a solution to the tow truck strategy, and
26 through all of that discussions, including in that meeting
27 nobody informed us of this solution that was in play.

28 And interestingly enough, even after the decision

1 to invoke the Act and the promulgation of the regulations in all
2 of the meetings we had to inform people of the new powers in
3 terms of rendering essential services, the tow truck provision,
4 even on the 14th, 15th, 16th, 17th, nobody mentioned or informed
5 anybody at Transport Canada that there had been any solution
6 found otherwise.

7 **MR. HATIM KHEIR:** You stated that the task of
8 obtaining tow trucks was seemingly an impossible task, but the
9 OPP's success in obtaining them shows that that wasn't the case;
10 right?

11 **COMMISSIONER ROULEAU:** Well I think you're going
12 to have to be fair with the evidence. I don't think that's the
13 evidence. So if you want to put to him the -- what OPP
14 testified to, you have to put the full picture.

15 **MR. HATIM KHEIR:** So Supt. Bernier, when he
16 testified here, he stated that on the 13th, the way he phrased it
17 was:

18 "As things materialized on the 13th, I was
19 satisfied that we were good." (As read)

20 And that was in reference to a question about tow
21 trucks.

22 So that seems to suggest that at least they had
23 been able to resolve that issue; right?

24 **DM MICHAEL KEENAN:** I can't confirm that, because
25 as I said, we'd been working exhaustively on the tow truck
26 strategy. All of our work, all of our conversations, and all of
27 our analysis had led us to the opposite conclusion.

28 **MR. HATIM KHEIR:** So I want to change the topic

1 slightly. So you've referenced illegal activity in your
2 testimony, the presence of illegal activity. Leaving aside for
3 a moment the border protests and blocking the border, which I
4 grant, in terms of what was happening elsewhere, are you
5 essentially referring to things like traffic violations, bylaw
6 violations?

7 **DM MICHAEL KEENAN:** The in terms of illegal and
8 unlawful activity, there's two things. The strategic
9 enforcement strategy specifically lists a whole series of
10 examples, including violations of different municipal bylaws,
11 multiple violations of the *Highway Traffic Act*, and multiple
12 violations of the *Criminal Code* as the key examples of the
13 unlawful activity that was apparent on a wide scale through the
14 protests -- sorry, through the -- not through the protests,
15 through the blockades and the occupations.

16 **MR. HATIM KHEIR:** Okay. And two of the *Criminal*
17 *Code* -- the two ones that were up front, I believe, were
18 mischief and intimidation, which, from my understanding, were
19 being committed by obstructing the roadways?

20 **DM MICHAEL KEENAN:** I think mischief and
21 intimidation, and obstruction, and there was one other one that
22 was on that list I think.

23 **MR. HATIM KHEIR:** Right. But the behaviour
24 underlying, for example, potential mischief or intimidation is
25 through obstructing a highway; right? And the use of that
26 highway in the case of mischief?

27 **DM MICHAEL KEENAN:** Well that was one of many.
28 For example, the swarming a police officer I think would count

1 as obstruction.

2 **MR. HATIM KHEIR:** Okay. But suffice it to say
3 that all this behaviour was already illegal and there were
4 already authorities there to prohibit that activity?

5 **DM MICHAEL KEENAN:** I think that was the point of
6 the Strategic Enforcement Strategy, is that we saw a scale and
7 intensity of unlawful activity across Canada that police -- was
8 eclipsing the ability of police to respond. And in the case of
9 Ottawa, when they tried to respond, they were being obstructed.
10 And so it was an attempt to communicate on a wide scale to
11 everybody who was either participating in the illegal activity,
12 or thinking about it, that it's illegal, it has consequences,
13 and to try and convince them to rethink their approach to, it's
14 a term I learned in the course of this crisis, to shrink the
15 footprint of illegal activity to make it more feasible for the
16 police to have a safe operation to return law and order.

17 **MR. HATIM KHEIR:** Right. And because of the
18 existence of those illegal authorities, that's why you wrote to
19 Ms. Drouin saying that in your view, the gap was not legislative
20 authority, but enforcement action; right?

21 **DM MICHAEL KEENAN:** The -- my assessment was that
22 the -- there was a lack of enforcement because the scale of the
23 unlawful activity eclipsed the ability of the police to enforce.

24 **MR. HATIM KHEIR:** If I could just ask one more
25 question? Thank you, Commissioner.

26 So that gap in enforcement action though, I mean,
27 to the extent that the Windsor Police had obtained the tow
28 trucks they needed on the 13th and were successful in clearing a

1 protest, to the extent that the OPS Incident Commander on the
2 13th with respect to tow trucks was saying that he was satisfied
3 that they were good, you'd agree that those are steps to then --
4 successful steps to closing that enforcement gap?

5 **DM MICHAEL KEENAN:** No. The -- because there
6 remained a significant -- first of all, the Windsor Police
7 needed massive assistance. It was a massive public order
8 operation. And even as they struggled through clearing it that
9 weekend, there was still a really significant gap in the ability
10 of police to enforce the peace across the country.

11 So no, the gap was not closed.

12 **MR. HATIM KHEIR:** Well I'm out of time, so those
13 are my questions. Thank you.

14 **COMMISSIONER ROULEAU:** Thank you.

15 Now on the Government of Canada.

16 **MR. CHRISTIAN DEA:** Excuse me, would it be
17 possible to take a two-minute break?

18 **COMMISSIONER ROULEAU:** Yes, certainly.

19 **MR. CHRISTIAN DEA:** If it's possible. Sorry.

20 **COMMISSIONER ROULEAU:** No, we accommodate
21 witnesses here. We're actually quite friendly. It might not
22 show.

23 **MR. CHRISTIAN DEA:** Thank you. I appreciate it.

24 **COMMISSIONER ROULEAU:** We will even give you five
25 minutes. How is that?

26 **DM MICHAEL KEENAN:** Thank you.

27 **COMMISSIONER ROULEAU:** Okay. Merci. Prenez
28 votre temps.

1 **THE REGISTRAR:** The Commission is in recess for
2 five minutes. La Commission levée pour cinq minutes.

3 --- Upon recessing at 5:46 p.m.

4 --- Upon resuming at 5:52 p.m.

5 **THE REGISTRAR:** Order. À l'ordre.

6 The Commission is reconvened. La Commission
7 reprend.

8 --- DM MICHAEL KEENAN, Resumed:

9 --- MR. CHRISTIAN DEA, Resumed:

10 **COMMISSIONER ROULEAU:** Okay.

11 --- CROSS-EXAMINATION BY MS. ANDREA GONSALVES:

12 **MS. ANDREA GONSALVES:** Thank you, Commissioner.
13 For the record, Andrea Gonsalves, counsel for the Government of
14 Canada.

15 Mr. Dea, I'm going to start with you. you've
16 been sitting there very patiently and I'm going to make it worth
17 your while I hope.

18 My friend, counsel for the convoy organizers, put
19 to you this afternoon the Stats Can Trade Impact document. Do
20 you recall that?

21 **MR. CHRISTIAN DEA:** Yes.

22 **MS. ANDREA GONSALVES:** And in response to one of
23 his questions, you started to say that the Stats Can report is
24 about trade impacts, not economic impacts, but I believe you
25 were cut off before you got around to explaining the difference.
26 Could you explain how those two concepts are different?

27 **MR. CHRISTIAN DEA:** Yes. Well, first of all, the
28 reports were just, you know, the monthly report released by

1 Stats Canada about the evolution of the trade overall.
2 Secondly, the point that I was referring is that, you know, in
3 the Stats Canada report, which was published in April as well,
4 they were very consistent with what we're saying when we're
5 doing -- conducting the assessment in February. So they were
6 saying basically that, you know, they have seen some rerouting,
7 which was part of the assumption that we were using in trying to
8 capture with the scenario one on our side. And in the Stats
9 Canada report, the purpose of this report is just to release
10 information on the trade evolution. It's not to provide an
11 economic assessment at sectoral detail level about the blockade
12 that happened during, you know, the month of February -- January
13 and February in some areas.

14 **MS. ANDREA GONSALVES:** And when you prepared your
15 economic analysis and that backgrounder document, did you know
16 at the time how long the blockades and border disruptions would
17 last?

18 **MR. CHRISTIAN DEA:** No.

19 **MS. ANDREA GONSALVES:** And were you able to
20 project out at what the long-term recovery of those disruptions
21 might look like?

22 **MR. CHRISTIAN DEA:** It -- no. It was very
23 difficult to assess at that time.

24 **MS. ANDREA GONSALVES:** Okay.

25 **MR. CHRISTIAN DEA:** And that's precisely why we
26 took the approach of scenario as well, just to try to identify a
27 spectrum of potential path in term of the impact and the
28 potential risk associated with that.

1 **MS. ANDREA GONSALVES:** And so if the blockades
2 continued, escalated, we may be moving from a scenario one into
3 a scenario two or a scenario three?

4 **MR. CHRISTIAN DEA:** Yeah, usually, the dynamic on
5 the economic side is you're starting by the most affected
6 sector. And if it lasts, you're starting to see cascade effect
7 and then direct impact through the rest of the other sector as
8 well. And this is amplifying basically the net economic loss
9 associated with that.

10 **MS. ANDREA GONSALVES:** Okay. Thank you.

11 Over to you, Deputy. You provided some evidence
12 in response to questions from Commission Counsel about the
13 assistance that Transport Canada -- Transportation of Dangerous
14 Good inspectors provided to the City of Ottawa during the
15 occupation. Do you recall that?

16 **DM MICHAEL KEENAN:** Yes.

17 **MS. ANDREA GONSALVES:** And am I understanding
18 correctly that Transport Canada inspectors have subject matter
19 expertise as to the activities that may amount to infractions of
20 the transportation of dangerous goods -- of the *Transportation*
21 *of Dangerous Goods Act*?

22 **DM MICHAEL KEENAN:** Yes, exactly.

23 **MS. ANDREA GONSALVES:** And to your understanding,
24 what were the concerns with respect to transportation of
25 dangerous goods infractions during the Ottawa occupation?

26 **DM MICHAEL KEENAN:** The two key ones were the
27 fact that there was a lot of movement and storage of a lot of
28 propane, which if there's a -- it was done improperly without

1 the appropriate safeguards, and that there was a lot of movement
2 of, particularly diesel, gasoline and diesel in unorthodox,
3 unsafe manner. Both of those created an elevated risk of having
4 an accident with a dangerous good and which would be some
5 combination of an explosion or sort of a firebomb that would do
6 -- that would be -- that's a significant elevated safety risk to
7 the people around the propane and the diesel.

8 **MS. ANDREA GONSALVES:** And Transport Canada
9 inspectors provided that assistance when requested by OPS; is
10 that right?

11 **DM MICHAEL KEENAN:** Yes.

12 **MS. ANDREA GONSALVES:** Now you've given a fair
13 amount of evidence today about the strategic enforcement
14 strategy, and I just want to go to a couple of additional
15 points. If we could pull it up, it's PB.CAN.00000860.

16 And if we start at the section on communications,
17 which you explained was one of the two components of this
18 strategy, communications and enforcement, is communications
19 something unique to this strategy or is that something that
20 Transport Canada employs more broadly in seeking to obtain
21 regulatory compliance?

22 **DM MICHAEL KEENAN:** I think it's the latter.
23 This is -- we were -- in building the strategic enforcement
24 strategy, we were drawing on our knowledge and expertise as a
25 regulatory and enforcement agency to -- of essentially, it's a
26 compliance strategy. And so communication is always the first
27 thing you do when you're trying to get somebody or any person or
28 regulated entity to comply with the legal requirements.

1 **MS. ANDREA GONSALVES:** If we could go down to the
2 next page, please? And yeah, just pausing there.

3 So the third bullet point that we see on the
4 screen there says that,

5 "...truck owners and operators should
6 know that, by emergency order in the
7 province of Ontario, can have their
8 driver's licence, plate portion of the
9 permit, or CVOR certificate immediately
10 suspended or cancelled."

11 Now this version of the strategy is February 13th,
12 but is that a component of the strategy that you were seeking to
13 have adopted or pursued in Ontario even prior to their state of
14 emergency?

15 **DM MICHAEL KEENAN:** Yes, and in fact, the reach
16 out to Ontario on the weekend of the 5th and 6th was scoping out
17 what we could say to this effect under the existing law. We
18 obviously couldn't go this far because this is an emergency
19 authorization. But even the prospect of somebody with a
20 commercial vehicle, who by blockading a street is committing
21 multiple *Highway Traffic Act* violations, trying to craft a
22 communication that this could lead to demerit points and the
23 loss of your CVOR and the ability of you to earn an income from
24 this asset. And so we were trying to get a milder version of
25 this, if you will, into it in the -- before the Ontario
26 Emergency Declaration.

27 **MS. ANDREA GONSALVES:** The letter that came to
28 you from Deputy Minister Leblanc on February the 8th -- let me

1 know if you want to pull it up, but in your earlier evidence,
2 you testified about the explanation that she gave in that letter
3 for not pursuing action under -- or with respect to CVORs. And
4 my question is, did you consider that to be a valid explanation
5 for refusing to use provincial authorities at the time?

6 **DM MICHAEL KEENAN:** I considered it to be a
7 technically valid explanation in the sense that I think every
8 sentence in that letter was technically sound and based in fact,
9 but not a strategically valid explanation in the sense that the
10 effect of it is they were saying they could do absolutely
11 nothing and they didn't want to talk about it anymore with us
12 and they asked us to go through Sol Gen.

13 I'll add two points. We thought, and as
14 regulatory experts we understand due process, legal
15 requirements, absolutely fair, absolutely essential. But in our
16 estimation, when -- and with the measures like there, there's
17 always a way to be a bit creative, particularly both in the
18 execution but particularly in the communication of these
19 sanctions and they were declining to participate. So
20 technically solid, technically sound, strategically not so much.

21 **MS. ANDREA GONSALVES:** And that letter refers
22 specifically to the ongoing protest in Ottawa, not the Windsor
23 blockade, which had arisen the day before. Did you have any
24 understanding as to whether Ontario's position was any different
25 with respect to the situation in Windsor?

26 **DM MICHAEL KEENAN:** Not from reading that letter,
27 but they -- after Windsor was -- after the kind of catastrophic
28 economic impacts of Windsor had built up over two or three days,

1 they did do a pivot.

2 **MS. ANDREA GONSALVES:** And turning back to the
3 strategic enforcement strategy, if we continue down, we come to
4 the enforcement section. There we go. And under provincial
5 transportation authorities there, point one says:

6 "Support local law enforcement in
7 managing vehicle flows by, for example,
8 conducting roadside safety and
9 emissions inspection with maximum
10 penalties for infractions..."

11 So my understanding that part of the strategy
12 that Transport was developing included having provincial
13 transportation authorities actually conduct roadside safety and
14 emission inspections as a way to prevent vehicles from
15 travelling to sites of ongoing blockades and the occupation of
16 Ottawa?

17 **DM MICHAEL KEENAN:** Yes. We were proposing it as
18 a collective multi-jurisdictional effort. We weren't trying to
19 take over their jurisdiction, but absolutely yes.

20 **MS. ANDREA GONSALVES:** Okay. And let's go to
21 ONT00005150.

22 This is an Ontario production. It's the
23 Operations Plan of the Ministry of Transportation for the Convoy
24 for Freedom truck protest. Is this a document you saw at the
25 time?

26 **DM MICHAEL KEENAN:** I did not -- I don't -- I did
27 not see this document at the time.

28 **MS. ANDREA GONSALVES:** Okay.

1 Let's go to page 7, please.

2 And under Enforcement Officers, there is a -- the
3 second bullet there says:

4 "Conducting regular enforcement away
5 from highways affected by the planned
6 convoy route at the direction of the
7 site lead. Officers will be directed
8 to conduct area patrol inspections at
9 laybys and and general patrol within
10 the district away from the planned
11 convoy route. Officers will not be
12 involved in any commercial vehicle
13 traffic stops of vehicles that are
14 participating in the convoy/protest
15 unless directed to do so by the site
16 leads."

17 Did you know at the time, Deputy, that MTO was
18 specifically directing its officers not to conduct roadside
19 vehicle inspections of vehicles that were participating in the
20 convoy?

21 **DM MICHAEL KEENAN:** No, I did not.

22 **MS. ANDREA GONSALVES:** And how do you understand
23 that interacts with what you were trying to achieve through the
24 strategic enforcement strategy?

25 **DM MICHAEL KEENAN:** Quite negatively. It's like
26 taking a tool out of the toolbox and throwing it in the ditch.
27 It's notable that I think the reason that that was in the
28 strategic enforcement strategy was that we had picked it up as

1 what we thought was a best practice from Quebec. They had used
2 that at some point, I think on the second weekend, they had used
3 that effectively to mitigate and manage trucks heading to
4 downtown Quebec City.

5 **MS. ANDREA GONSALVES:** Let's go to ONT00000311,
6 and to page 6, please.

7 These are notes of a call that I understand you
8 participated in with officials from Ottawa as well as Deputy
9 Minister Mario Di Tommaso on February 6th. Do you recall that
10 call?

11 **DM MICHAEL KEENAN:** Yes, I do.

12 **MS. ANDREA GONSALVES:** Okay. And in the words
13 that are attributed to you in these notes, the third sort of
14 hollow bullet point under your name, we see:

15 "An observation he provided that while
16 Wellington encampments may be
17 contained, it is the spiritual source
18 of the protest movement. It is acting
19 a fuel for the engagement of others."

20 Can you just explain what you were trying to
21 convey on that call?

22 **DM MICHAEL KEENAN:** Sure. I don't -- I recognise
23 the idea. I'm not sure I recognise the words. I can't speak to
24 the notetaking. But it was essentially that this large unlawful
25 occupation in Ottawa was both -- was providing energy that was
26 manifest elsewhere. So there was inspiration, solidarity, and
27 there was occasionally like calls to -- there were calls back
28 and forth from different cities, but there was clearly either a

1 conscious strategic or even unconscious connection between what
2 was going on in Ottawa and other sites. And the assessment that
3 I was sharing was that if there's this massive occupation in
4 Ottawa, it's -- you're going to continue to see problems across
5 the country until Ottawa is resolved.

6 **MS. ANDREA GONSALVES:** Okay. Now, in your, or in
7 the Transport Canada institutional report...

8 Let's pull it up. DOJ.IR.00000005.

9 There is detailing of various engagements and
10 consultations with other stakeholders and counterparts to deal
11 with the situation.

12 If we could go to page 12, please, beginning at
13 paragraph 46.

14 And so that paragraph describes the consultations
15 that Transport led with -- at the ADM level in connection with
16 the enforcement strategy?

17 **DM MICHAEL KEENAN:** Yes.

18 **MS. ANDREA GONSALVES:** And that includes meetings
19 with all of the provincial counterparts who were directly
20 affected by the events associated with what you've described as
21 a national crisis?

22 **DM MICHAEL KEENAN:** Yes.

23 **MS. ANDREA GONSALVES:** And the first of those, we
24 understand, was held on February 4th. Do I have that date
25 right?

26 **DM MICHAEL KEENAN:** I think so. Yeah, well --
27 there it is, February 4th.

28 **MS. ANDREA GONSALVES:** Yeah. And Mr. Cameron, in

1 his examination, took you through the minutes of another of
2 those meetings on February 7th. You recall that?

3 **DM MICHAEL KEENAN:** Yes.

4 **MS. ANDREA GONSALVES:** And then there was another
5 meeting of the Policy and Planning Support Committee on
6 February 8th, and we see that at the top of page 13 of the
7 report?

8 **DM MICHAEL KEENAN:** Yes.

9 **MS. ANDREA GONSALVES:** Okay. And there is
10 discussion in the report of additional bilateral consultations
11 with Ontario and Alberta on February 5th, 6th, and 7th?

12 **DM MICHAEL KEENAN:** Yes.

13 **MS. ANDREA GONSALVES:** We don't need to go to it,
14 but I understand that further down in the institutional report
15 there is discussion of other consultations and meetings by you
16 and other Transport officials, as well as your Minister
17 regarding possible responses to the crisis; right?

18 **DM MICHAEL KEENAN:** Yes, intense ongoing
19 engagement and consultations every day.

20 **MS. ANDREA GONSALVES:** And just to be clear,
21 these consultations were not only with the provinces, but also
22 with municipal officials in the areas that were impacted?

23 **DM MICHAEL KEENAN:** For the -- I personally was
24 involved in consultations with the City of Ottawa and the Ottawa
25 Police Service through the meetings that were organised and
26 chaired by my colleague, the -- Rob Stewart. And the -- my
27 officials were involved in extensive meetings, but I don't know
28 if there were -- there were not very many meetings beyond the

1 Ottawa ones where we were directly engaged with municipal
2 officials.

3 **MS. ANDREA GONSALVES:** But to the extent they
4 took place, they're set out in the report?

5 **DM MICHAEL KEENAN:** Yes.

6 **MS. ANDREA GONSALVES:** Okay. And then I
7 understand there were also consultations with industry
8 associations and business organisations in sectors that were
9 affected.

10 **COMMISSIONER ROULEAU:** If I could -- oh, sorry.
11 Okay, go ahead.

12 **DM MICHAEL KEENAN:** There were, yes, extensive
13 consultations.

14 **MS. ANDREA GONSALVES:** One of the things you
15 spoke about in your earlier testimony was that the professional
16 trucking industry was not supportive of the demonstrations and
17 tried to distance itself from it. You recall giving that
18 evidence?

19 **DM MICHAEL KEENAN:** Yes.

20 **MS. ANDREA GONSALVES:** And I don't know that we
21 need to go to each one, but I do want to put them on the record.
22 There was a letter from the Canadian Trucking Alliance on
23 January 19th, SSM.CAN.00000335. You remember receiving input
24 from the Canadian Trucking Alliance?

25 **DM MICHAEL KEENAN:** Yes.

26 **MS. ANDREA GONSALVES:** There was communication
27 from the Atlantic Truckers Association on February 1 at
28 SSM.CAN.00000345. You recall that?

1 **DM MICHAEL KEENAN:** Yes.

2 **MS. ANDREA GONSALVES:** The Canadian Trucking
3 Alliance and the Canadian Manufacturers and Exporters reached
4 out on February 10th after the blockade in Windsor. Do you
5 recall that?

6 **DM MICHAEL KEENAN:** Yes.

7 **MS. ANDREA GONSALVES:** SSM.CAN.00000987. And
8 then there was a public statement put out by the Alberta Beef
9 Producers, Alberta Cattle Feeders Association, and the Canadian
10 Cattlemen's Association on February 3rd regarding the protest
11 activity at Coutts. Do you recall that one?

12 **DM MICHAEL KEENAN:** Yes, I do.

13 **MS. ANDREA GONSALVES:** And that's
14 SSM.CAN.00000945.

15 And then one final one, you -- your Minister in
16 Transport had engagement with the motor vehicle industry?

17 **DM MICHAEL KEENAN:** Yes.

18 **MS. ANDREA GONSALVES:** And that's at
19 SSM.CAN.0000958, for the record.

20 Sorry, that is a letter from the Canadian Vehicle
21 Manufacturer's Association of February 8th.

22 If it's possible to do so, summing up all of the
23 input that was received from these various associations, what
24 were they telling you?

25 **DM MICHAEL KEENAN:** Three things. And the three
26 things evolved over time. The first thing they were making
27 clear to us privately, and they were making clear very publicly,
28 the professional trucking associations, the professional

1 trucking industry said, "This is not us. This is not an
2 activity of the trucking industry." And they further -- the
3 second thing that they -- they made that very clear repeatedly.

4 The second thing is, as Ottawa got occupied, the
5 -- I know specifically the Canadian Trucking Alliance and others
6 said, A, "This is not us. If you're a truck driver and you're
7 there, you're not representing your industry." And that they
8 asked everybody to "Be peaceful and leave soon."

9 And then the third -- there was a third round
10 that was very intense from the 8th to the 10th, and that was 12
11 trucking associations across the country, the cattlemen, the
12 vehicle manufactures, the food manufacturers, a wide range of
13 the tool and dye industry, with really strong appeal to the
14 blockaders at Windsor to stop and to allow the bridge to open,
15 and there was some fairly impassioned communication from the
16 trucking industry saying, "You're really hurting truckers.
17 You're killing their ability to earn a living. They're stuck.
18 You're actually stopping truckers from doing what they want to
19 do."

20 So it was sort of those three messages evolving
21 over time.

22 **MS. ANDREA GONSALVES:** Okay. And just returning
23 to the engagements and consultations that you were having,
24 particularly with provincial counterparts, in your evidence
25 earlier, you described mixed reactions, and in some cases,
26 reactions that were cool and reserved. Do you remember that
27 evidence?

28 **DM MICHAEL KEENAN:** Yes.

1 **MS. ANDREA GONSALVES:** Through those
2 consultations, did that inform your views as to the
3 effectiveness or not of the coordinated enforcement strategy
4 that you hoped to achieve?

5 **DM MICHAEL KEENAN:** It did. I would say that at
6 the beginning, it was a little slow going because of that
7 initial response that has been described by Ontario. And there
8 was a general, I would say, reluctance of provincial colleagues
9 to jump to the front on this, because it was such an awful
10 crisis. The problems were so messy and the intensity and the
11 anger coming from the blockades and the occupations was a cause
12 for pause.

13 Over time, I would say there was -- we saw more
14 of a convergence of efforts over the course of the week,
15 particularly after the Ontario pivot on the 10th.

16 **MS. ANDREA GONSALVES:** Okay. Now, you also gave
17 evidence today concerning the discussions that were taking place
18 around invocation of the *Emergencies Act* at DMOCC and the IRG,
19 particularly February 12th and the 13th. Do you recall that?

20 **DM MICHAEL KEENAN:** Yes.

21 **MS. ANDREA GONSALVES:** And you described that --
22 I think your words were that "We're really close to significant
23 violence." You were concerned about how things were building.
24 And you understand that both the Ambassador Bridge and the --
25 the Ambassador Bridge blockade was cleared, it was reopened and
26 the Coutts arrests had happened by the time the Prime Minister
27 announced invocation of the *Emergencies Act* on the 14th?

28 **DM MICHAEL KEENAN:** Yes.

1 **MS. ANDREA GONSALVES:** Did you understand those
2 areas, or the national crisis, to no longer be a concern at that
3 point?

4 **DM MICHAEL KEENAN:** No, it was still a
5 significant concern.

6 **MS. ANDREA GONSALVES:** And recalling that the 13th
7 was a Sunday and the 14th was a Monday, had you seen a pattern in
8 previous weeks of activity increasing on the weekends and then
9 dropping off during the week?

10 **DM MICHAEL KEENAN:** Yes. In fact, we were --
11 unfortunately, we were seeing a well-established pattern because
12 the 12th and the 13th was the third weekend of blockades and
13 occupations. And so there was both the weekly cycle of it
14 getting bad on the weekend and then receding a bit on the
15 weekdays to get worse on the weekend again.

16 In addition to that, I think you could see a bit
17 of an upward trend in the size of the problem. It was growing
18 both in terms of the entrenchment in Ottawa, where the
19 occupation was getting more entrenched and attitudes were
20 hardening on both sides.

21 But as we went into the weekend of the 12th and
22 13th, you could see a growing pattern of activity disruptions and
23 problems across the country. So there was both the weekend
24 effect and then the problem was getting worse because of the
25 accumulation of time.

26 **MS. ANDREA GONSALVES:** And what, if any,
27 implications did that pattern have in your mind for a potential
28 fourth weekend without some sort of significant disruption to

1 the crisis?

2 **DM MICHAEL KEENAN:** It would have been even
3 worse.

4 **MS. ANDREA GONSALVES:** You mentioned in your
5 earlier evidence the 2020 rail blockades. And were concerns
6 about a rail blockade something that you had turned your mind to
7 at the time?

8 **DM MICHAEL KEENAN:** Yes. Once we started to see
9 the slow rolls sort of transition to blockades and occupations,
10 and as the crisis dragged on, we became more and more concerned
11 that the next step -- or the next shoe was going to drop, which
12 was the next blockade would be a rail one, and then we would
13 have both the border blockades and the rail blockades at the
14 same time, which would dramatically escalate the economic harm
15 to the country.

16 **MS. ANDREA GONSALVES:** And I think we saw in the
17 backgrounder, or it appears in the backgrounder, that the
18 products that are largely carried by rail are different from the
19 products that are carried by truck. And so one mode of
20 transportation is not a substitute for the other. They each
21 present their own concerns, if there are blockades. Is that
22 fair?

23 **DM MICHAEL KEENAN:** Yes, that's right.

24 **MS. ANDREA GONSALVES:** Okay. In the two minutes
25 I think I have remaining, I just want to touch on the tow truck
26 issue.

27 As I understand, one of the elements of the tow
28 truck strategy is that if a vehicle that's present at one of the

1 blockades is not in moveable condition, that a mechanic would
2 prepare it for being driven? Is that correct?

3 **DM MICHAEL KEENAN:** Yes.

4 **MS. ANDREA GONSALVES:** And were you aware during
5 these events, of protestors taking deliberate steps to disable
6 their vehicles so they could not be driven away?

7 **DM MICHAEL KEENAN:** Yes. And that was why that
8 mechanic part of the strategy was in the strategy.

9 **MS. ANDREA GONSALVES:** And the issue with tow
10 trucks was primarily an issue getting access to heavy tows and
11 suitable operators? Is that fair?

12 **DM MICHAEL KEENAN:** Yes. I mean, there was a
13 general tow truck industry problem, but the part that was
14 absolutely insurmountable was getting the heavy wreckers and the
15 skilled operators to move large commercial vehicles.

16 **MS. ANDREA GONSALVES:** And counsel for the
17 Democracy Fund and JCCF put to you that tow services were made
18 available in Windsor through a tow company contracted by
19 Windsor.

20 Is it your understanding that the vast majority
21 of the vehicles at the Windsor blockade were passenger vehicles,
22 not commercial rigs?

23 **DM MICHAEL KEENAN:** Yes. In fact, my
24 understanding is they used tow trucks and they were able to deal
25 with it with a few small tow trucks. They didn't require large
26 wreckers.

27 **MS. ANDREA GONSALVES:** And was it your
28 understanding at the time that the OPP did in fact use the

1 measures in the EMR to require tow truck companies to provide
2 services in order to assist in clearing the occupation in
3 Ottawa?

4 **DM MICHAEL KEENAN:** Yes, our understanding is
5 that the tow trucks, the heavy wreckers that were secured by
6 Ottawa or secured through the OPP going out to the industry and
7 informing -- requesting the service, informing them of their
8 legal obligation to provide it, and their indemnity, and that
9 kind of cracked the problem.

10 **MS. ANDREA GONSALVES:** Thank you. I think my
11 time is up. Those are my questions.

12 **COMMISSIONER ROULEAU:** Okay. Thank you. Any re-
13 examination?

14 **MR. GORDON CAMERON:** No thank you, Commissioner.

15 **COMMISSIONER ROULEAU:** Okay. Well we'll have an
16 early night.

17 So thank you very much for your testimony. Merci
18 beaucoup d'être venue and you're free to go and enjoy your
19 evening.

20 **DM MICHAEL KEENAN:** Thank you very much.

21 **MR. CHRISTIAN DEA:** Thank you.

22 **COMMISSIONER ROULEAU:** Appreciate you coming.

23 So we'll adjourn until tomorrow morning at 9:30.

24 **THE REGISTRAR:** The Commission is adjourned. La
25 Commission est ajournée.

26 --- Upon adjourning at 6:23 p.m.

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C E R T I F I C A T I O N

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3 I, Wendy Clements, a certified court reporter, hereby certify
4 the foregoing pages to be an accurate transcription of my
5 notes/records to the best of my skill and ability, and I so
6 swear.

7

8 Je, Wendy Clements, une sténographe officielle, certifie que les
9 pages ci-hautes sont une transcription conforme de mes
10 notes/enregistrements au meilleur de mes capacités, et je le
11 jure.

12

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14 Wendy Clements

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